

THE
T R Y A L
O F
Spencer Cowper, Esq;

*John Marson, Ellis Stevens, and
William Rogers, Gent.*

Upon an Indictment for the Murther of
Mrs. *SARAH STOUT*, a Quaker.

Before Mr. Baron *Hatsell*, at *Hertford* *A* *Nizes*,
July 18. 1699

Of which they were Acquitted.

With the Opinions of the Eminent Physicians and
Chyrurgeons on both sides, concerning Drown-
ed Bodies, delivered in the Tryal.

A N D

The several Letters produced in Court.

L O N D O N,

Printed, and are to be Sold by the Booksellers of *London*
and *Westminster*. 1699.

The Tryal of *Spencer Cowper, Esq; &c.*

Die Mercurii 16 Julii, 1699.

Cl. of Arr. Proclamation was made for all persons concerned to attend
YOU good Men that are empanell'd to enquire, &c. answer to your names, and save your Fines.

Then *Ellis Stephens, William Rogers* and *John Marson* being upon Bail, Proclamation was made for them to attend, which they accordingly did, and *Mr. Cowper* was brought into Court by the Under-Sheriff.

Cl. of Arr. *Spencer Cowper* hold up thy hand. (which he did.) *John Marson* hold up thy hand. (which he did.) *Ellis Stevens* hold up thy hand. (which he did.) *William Rogers* hold up thy hand. (which he did.)

You stand Indicted by the Names of *Spencer Cowper*, late of the Parish of *St. Johns*, in the Town of *Hertford*, in the County of *Hertford*, Esq; *John Marson*, late of the Parish aforesaid, in the County aforesaid, Gentleman. *Ellis Stevens*, late of the Parish aforesaid, in the County aforesaid, Gentleman and *William Rogers*, late of the Parish aforesaid, in the County aforesaid, Gentleman. For that you not having God before your eyes, but being moved and seduced by the instigation of the Devil, on the thirteenth day of *March*, in the Eleven Year of the Reign of his present Majesty, by force and arms, &c. at the Parish aforesaid, in the County aforesaid, in and upon one *Sarah Stout* Spinster, in the Peace of God and our Sovereign Lord the King, then and there being, violently, feloniously, voluntarily, and of your malice aforethought, did make an Assault; and that you the aforesaid *Spencer Cowper, John Marson, Ellis Stevens*, and *William Rogers*, a certain Rope of no value, about the neck of the said *Sarah* then and there feloniously, voluntarily, and of your malice aforethought, did put, place, fix and bind, and the neck and throat of the said *Sarah*, then and there with the hands of you the said *Spencer Cowper, John Marson, Ellis Stevens* and *William Rogers*, feloniously, voluntarily, and of your malice aforethought, did hold, squeeze, and gripe: And that you the said *Spencer Cowper, John Marson, Ellis Stevens*, and *William Rogers*, with the aforesaid Rope, by you the said *Spencer Cowper, John Marson, Ellis Stevens* and *William Rogers*, then as aforesaid about the neck of the aforesaid *Sarah Stout* put, placed, fixed, bound and by the squeezing and griping of the neck and throat of the said *Sarah* with the hands of you the said *Spencer Cowper, John Marson, Ellis Stevens* and *William Rogers* as aforesaid, the said *Sarah Stout* then and there, by force of arms, &c. feloniously, voluntarily, and of your malice aforethought, did choak and strangle; by reason of which choaking and strangling of her the said *Sarah Stout*, by you the aforesaid *Spencer Cowper, John Marson, Ellis Stevens* and *William Rogers*, with the said Rope about the neck of the said *Sarah Stout* as aforesaid, placed, fixed and bound, and by the squeezing and griping of the neck and throat of the said *Sarah* with the hands of you the said *Spencer Cowper, John Marson, Ellis Stevens* and *William Rogers*, as aforesaid, the said *Sarah* then and there instantly dyed: And so you the said *Spencer Cowper, John Marson, Ellis Stevens* and *William Rogers*, the said *Sarah Stout*, on the thirteenth day of *March*, in the year aforesaid, in the Parish aforesaid, in the County aforesaid, in manner and form aforesaid, feloniously, voluntarily, and of your malice aforethought, did kill and murder; and the said *Sarah Stout*, as aforesaid, by you the said *Spencer Cowper, John Marson, Ellis Stevens* and *William Rogers*, feloniously, voluntarily, and out of your malice aforethought, choaked and strangled. into a certain River, there being called the *Priory River*, then secretly and maliciously did put and cast, to conceal and hide the said *Sarah Stout* so murdered, against the Peace of our Lord the King, his Crown and Dignity, &c. How say'st thou *Spencer Cowper*, art thou Guilty of the Felony and Murder whereof thou stand'st Indicted, or not Guilty?

Mr. Cowper. Not Guilty.

Cl. of Arr. Culprit. How wilt thou be tried?

Mr. Cowper. By God and my Country.

Cl. of Arr. God send you a good deliverance.

Then the other three pleaded likewise, Not Guilty; and put themselves upon their Country in manner aforesaid.

Then Proclamation was made for Information.

Cl. of Arr. You the Prisoners at the Bar, These men that you shall hear call'd, and personally appear, are to pass between our Sovereign Lord the King and you, upon Trial of your several Lives and Deaths: Therefore if you will challenge 'em, or any of 'em, your time to speak is as they come to the Book to be Sworn, before they be Sworn.

Then the Pannel was called over.

Cl. of Arr. Do you design to joyn in your Challenges, or to Challenge seperately?

Mr. Cowper. If we should Challenge separately, there must be so many separate Tryals, and therefore to prevent the trouble of the Court, I am willing there should be but one Challenge for all.

Cl. of Arr. Gentlemen, Do you all agree to that?

Prisoners. Yes, yes.

Then after some Challenges, as well on the part of the King as of the Prisoners, there not being a full Jury of the principal Pannel:

Mr. Cowper. If your Lordship please, the Pannel is now gone through, I desire they may shew some legal Cause for their Challenges.

Mr. Jones. I conceive we that are retain'd for the King are not bound to shew any Cause, or the Cause is sufficient if we say they are not Good for the King, and that is allow'd to be a good Cause of Challenges, for what other Cause can we shew in this Case. You are not to shew your Cause, you Challenge peremptorily, so in this Case the King does.

Mr. Cowper. My Lord, I stand at the Bar with some disadvantage, to encounter a Gentleman that liath no Concernment; but however, I do take it for Law, that there must be a Cause shew'd, and that Cause must

must be a legal one, and what that Cause is they must certainly make out. I do think it ought to appear that there is some relation, or some notorious Affection or Friendship, or something of that sort, or otherwise is not a legal Cause of Challenge; and if there seem to be any difficulty in this particular, I hope your Lordship will assign me Council to argue it with the Kings Council.

Mr. Baron Hatfield. Mr. Cowper, you are not under such disadvantage as men usually are that stand where you now do. You have been educated in the study of the Law, and understand it very well, I have several times seen how you have managed your Clients Causes to their advantage. As for this matter of Challenge, Mr. Jones, I think you should shew your Cause of Challenge, tho' the Law allows the Prisoner the liberty to Challenge 20 peremptorily.

Mr. Jones, I don't know, in all my practice of this nature, that it was ever put upon the King to shew Cause, and I believe some of the Kings Council will say they have not known it done.

Mr. Cowper, In L. Ch. Justice *Hales's Pleas of the Crown*, p. 259. it is expressly so, and in the Statute of 33 E. 1. 'tis said the King shall not Challenge without Cause and that must be legal.

Cl. of Arr. Call Daniel Clarke.

Mr. Baron Hatfield. Mr. Jones, if you can say any Jury-man hath said any thing concerning this Cause, and given his Verdict by way of discourse, or shew'd his affection one way or other, that would be good Cause of Challenge.

Mr. Jones. My Lord, then we should keep you here while to morrow morning.

Mr. Baron Hatfield. If there hath been any great Friendship between any Jury-man and the party, it will look ill if he be insisted upon.

Mr. Cowper. My Lord, I don't insist upon it, but I profess I know of no Friendship, only that Mr. Clarke in Elections hath taken our Interest in Town; I know I have a just Cause, and I am ready to be tried before your Lordship and any fair Jury of the County; therefore I do not insist upon it.

Then the Jury sworn was as followeth:

<i>Evan, Lloyd, Esq;</i>	<i>John Harrow,</i>	}	{	<i>Thomas Parrott,</i>	<i>Rich. Crouch,</i>
<i>William Watson,</i>	<i>George Holgate,</i>			<i>Sam. Wallingham,</i>	<i>John Cock,</i>
<i>John Prior,</i>	<i>John Stracey.</i>			<i>Francis Cole,</i>	<i>Rich. Dickinson,</i>

Mr. Cowper. My Lord, I humbly move that I may have Pen, Ink and Paper.

Mr. Baron Hatfield. Ay, by all means.

Cl. of Arr. Hold up your hand. (which he did) And so of the rest.

You of the Jury look upon the Prisoners, and hearken to their Charge. They stand Indicted by the names of, &c. (Proul in the Indictment (*mutatis mutandis*.)

Jury. My Lord, we desire we may have Pen, Ink and Paper.

Clerk of the Assize. There are three of the Jury desire Pen, Ink and Paper.

Mr. Baron Hatfield. Let as many have it as will.

Mr. Jones. May it please your Lordship, and you Gentlemen that are sworn, I am of Council for the King in this Cause, and it is upon an Indictment by which the Gentlemen at the Bar stand accus'd for one of the foulest and most wicked Crimes almost that any Age can remember; I believe in your County you never knew a fact of this nature: For here is a young Gentlewoman of this County murder'd and strangled in the night time. The thing was done in the dark, therefore the Evidence cannot be so plain as otherwise might be.

After she was strangled and murder'd, she was carried and thrown into a River to stifle the fact, and to make it suppos'd that she had murder'd herself; that it was indeed, if it prove otherwise, a double Murder, and a Murder accompanied with all the Circumstances of Wickedness and Villany that I remember in all my Practice, or ever read of.

This Fact, as it was committed in the night time, so it was carried very secret, and it is very well we have had so much light as we have to give so much satisfaction: For we have here in a manner two Tryals, one to acquit the party that is dead, and to satisfy the world, and vindicate her reputation that she did not murder herself, but was murder'd by other Hands. For my part, I shall never Council in the case of Blood aggravate; I will not improve or enlarge the Evidence at all, it shall be only my business to set the Fact as it is, and to give the Evidence, and state it as it stands here in my Instructions.

My Lord, for that purpose, to lead to the Fact, it will be necessary to inform you that upon Monday the 13th of March, the first day of the last Assizes here, Mr. Cowper, one of the Gentlemen at the Bar, came to this Town, and lighted at Mr. Barefoot's House, and staid there some time, I suppose, to dry himself, the weather being dirty, but sent his Horse to Mrs. Stout's, the Mother of this Gentlewoman. Some time after he came thither himself, and din'd there, and staid till 4 in the afternoon; at 4 when he went away, he told them he would come and lodge there that night, and Sup.

According to his word he came there, and had the Supper he desired, after Supper Mrs. Stout the young Gentlewoman and he sat together till near 11 a Clock. At 11 a clock there was orders given to warm his Bed openly to warm his Bed, in his hearing. The Maid of the house, Gent. upon this went up stairs to warm his Bed, expecting the Gent. would have come up and followed her before she had done, but it seems while she was warming of the Bed she heard the door clap together, and the nature of that door is such, that it makes a great noise at the clapping of it to, that any body in the House may be sensible of any ones going out. The Maid upon this was concern'd, and wonder'd at the meaning of it, he promising to lye there that night; she came down, but there was neither Mr. Cowper nor Mrs. Stout, so that we suppose, and for all that we can find and learn, they must go together. After their going out, the Maid and Mother came into the Room, and the young Gentlewoman not returning, nor Mr. Cowper, they sat up all night, in the house, expecting what time the young Gentlewoman would return. The next morning after they had sat up all night, the first news of this Lady was, that she lay floating and swimming in the water by the Mill-Dam. Upon that there was several persons call'd; for it was a surprise how this should come to pass. There she lay floating with her Petticoats and Apron, but her Night rail and Morning-gown were off, and one of them not found till some time after; and the Maid will give you an account how it came to be found.

This

This made a great noise in the Country ; for it was very extraordinary, it hapning, that from the time the Maid left Mr *Cowper* and this young Gentlewoman together, she was not seen or heard of till next morning, when she was found in this condition, with her Eyes broad open, floating upon the water.

When her Body came to be view'd it was very much wonder'd at: For in the first place it is contrary to nature, that any persons that drown themselves, should float upon the water. We have sufficient Evidence that it is a thing that never was ; if Persons come alive into the water then they sink, if dead then they swim, that made some more curious to look into this matter. At first it was thought that such an accident might happen, though they could not imagin any cause for this woman to do so, who had so great Prosperity, had so good an Estate, and had no occasion to do an action upon her self so wicked and so barbarous, nor cannot learn what reason she had to induce her to such a thing. Upon view of the Body it did appear there had been violence used to the woman, there was a crease round her Neck, she was bruised about her Ear, so that it did seem as if she had been strangled either by Hands or a Rope.

Gentlemen, upon the examination of this matter, it was wondred how this matter came about, it was dark and blind. The Coroner at that time, nor these People had no Evidence given but the ordinary Evidence, and it pass'd in a day. We must call our Witnesses to this Fact, that of necessity you must conclude she was strangled, and did not drown her self: If we give you as strong a proof as can be upon the nature of the Fact, that she was strangled, then the second matter under your enquiry will be, to know who, or what persons should be the men that did the Fact. I told you before it was, as all wicked actions are, a matter of darkness, and done in secret, to be kept as much from the knowledge of men as was possible.

Truly, Gentlemen, as to the Persons at the Bar, the Evidence of the Fact will be very short, and will be to this purpose.

Mr *Cowper* was the last Man unfortunately in her Company, I could wish he had not been so with all my heart, 'tis a very unfortunate thing, that his Name should upon this occasion be brought upon the Stage ; but then, my Lord, it was a strange thing ; here happens to be three Gentlemen, Mr *Marson*, Mr *Rogers*, and Mr *Stevens*, as to these 3 men, my Lord, I don't hear of any business they had here, unless it was to do this matter, to serve some Interest or Friend, that sent them upon this message, for, my Lord, they came to Town (and in things of this nature, 'tis well we have this Evidence, but if we had not been streightned in time it would have brought out more, these things come out slowly) these persons, Mr *Stevens*, Mr *Rogers*, and Mr *Marson* came to Town here on the 13th of March last, the Assize day: My Lord, when they came to Town, they came to an House, and took Lodgings at one *Gurr*'s, they took a Bed for two and went out of their Lodging, having taken a Room with a large Bed in it, and afterwards they went to the *Glove and Dolphin*, and then about 8 a Clock one *Marson* came to them there ; in what company they came, your Lordship and the Jury will know by and by, they staid there, my Lord, at the *Glove*, from 8 a Clock to 11, as they say. At 11 these three Gentlemen came all in to their Lodging together to this *Gurrey*'s ; my Lord, when they came in, it was very observable amongst them, unless there had been a sort of fate in it: 1st, That they should happen to be in the condition they were in, and 2dly, fall upon the discourse they did at that time ; for, my Lord, they call'd for Fire, and the Fire was made them, and while the people of the house were going about, they observed and heard these Gentlemen talk of Mrs *Sarah Stout*, that happened to be their discourse, one said to the other, *Marson*, she was an old Sweetheart of yours: Ay, saith he, but she cast me off, but I reckon by this time a Friend of mine has done her business ; another piece of discourse was, I believe a Friend of mine is even with her by this time. They had a bundle of Linnen with them, but what it was is not known, and one takes the bundle and throws it upon the Bed, well, saith he, her business is done, Mrs *Sarah Stout*'s courting days are over, and they sent for Wine, my Lord ; so after they had drank of the Wine they talk'd of it, and one pulled out a great deal of Mony, saith one to another, what Mony have you spent to day ? Saith the other, thou hast had 40 or 50*l.* for thy share: Saith the other, I will spend all the Mony I have, for joy the business is done.

My Lord, this discourse hapned to be among them, which made the People of the House consider and bethink themselves, when the next day they heard of this Mrs *Stout*'s being found in the water, this made them recollect and call to mind all these discourses.

My Lord, after these Gentlemen had staid there all night, next Morning truly it was observ'd (and I suppose some account will be given of it) that Mr *Cowper* and they did meet together, and had several discourses, and that very day went out of Town, and I think as soon as they came to *Hoddesdon*, made it all their discourse and business to talk of Mrs *Stout*.

My Lord, we will call our Witnesses, and prove all these Facts that I have opened to your Lordship, and then I hope they will be put to give you some account how all these matters came about.

Call *Sarah Walker* (who was sworn)

Mr. *Jones*, Mrs *Walker* pray give an account to my Lord and the Jury, of Mr. *Cowper*'s coming to your house the 13th of March, and what was done from his coming there at night to his going out.

Sarah Walker. May it please you, my Lord, on Friday before the last Assizes, Mr *Cowper*'s Wife sent a Letter to Mrs *Stout*, that she might expect Mr *Cowper* at the Assize time, and therefore we expected Mr *Cowper* at that time, and accordingly provided ; and as he came in with the Judges, she ask'd him if he would alight, he said no, by reason I come in later than usual, I will go into the Town and show my self, but he would send his Horse presently ; she ask'd him, how long it would be before he would come, because they would stay for him ; he said, he could not tell, but he would send her word, and she thought he had forgot, and sent me down to know, whether he would please to come ; he said, he had business, and he could not come just then, but he came in less than a quarter of an hour after, and din'd there, and he went away at 4 a Clock, and then my Mistress askt him, if he would lie there, and he answered yes, and he came at night about 9 a Clock, and he sat talking about half an hour, and then call'd for Pen, Ink and Paper, for that, as he said, he was to write to his Wife, which was brought him, and he wrote a Letter, and then my Mistress went and ask'd him, what he would have for Supper, he

said

said Milk, by reason he had made a good Dinner; and I got him his Supper and he eat it, after she called me in again, and they were talking together, and then she bid me make a Fire in his Chamber, and when I had done so I came and told him of it, and he look'd at me, and made me no answer; then she bid me warm the Bed, which accordingly I went up to do as the Clock struck 11, and in about a quarter of an hour, I heard the door shut, and I thought he was gone to carry the Letter, and staid about a quarter of an hour longer and came down, and he was gone and she, and Mrs Stout the Mother, ask'd me the reason why he went out when I was warming his Bed, and she askt me for my Mistress, and I told her, I left her with Mr Cowper, and I never saw her after that, nor did Mr Cowper return to the house.

Mr Jones, How long did you sit up?

Walker, All night.

Mr Jones, What time next morning did you see her?

Walker, About 7 a Clock.

Mr Jones, In the Water, or out?

Walker, Out of the Water.

Mr Cowper, Pray will you recollect a little, and be very particular as to the time when I went out at night.

Walker, Sir, It was a quarter after 11 by our Clock, the difference between the Town Clock and ours was half an hour.

Mr Cowper, But you say by your Clock it was a quarter after 11.

Walker, Yes Sir.

Mr Cowper, Pray what account did you give, as to the time, to the Coroner's Inquest?

Walker, I said then it was 11, or a quarter after 11, when I heard the door shut.

Mr Cowper, Pray was Mrs Stout present with the Coroner's Inquest when you gave that account?

Walker, Yes, she was.

Mr Cowper, Pray what account did you give as to the time before my L. C. J. Holt?

Walker, I gave the account that it was 11, or a quarter of an hour after.

Mr Cowper, In her Depositions there is half an hours difference, for then she said it was half an hour after 10.

Mr. Baron Hatfell, Which Clock was earliest, yours or the Town Clock?

Walker, Ours was half an hour faster than theirs.

Mr Jones, So then it wanted a quarter of 11 by the Town Clock.

Mr Cowper, How came you to know this?

Walker, By reason that Dinner was dress'd at the Cooks, and it was order'd to be ready by 2 a Clock, and it was ready at 2 a Clock by the Town Clock, and half an hour after 2 by ours.

Mr Cowper, When you came down and mist your Mistress, did you enquire after her all that night?

Walker, No Sir, I did not go out of the doors; I thought you were with her, and so I thought she would come to no harm.

Mr Cowper, Here is a whole night she gives no account of. Pray Mistress why did not you go after her?

Walker, My Mistress would not let me.

Mr Cowper, Why should she not let you?

Walker, I said I would see for her: No, saith she, by reason if you go and see for her, and do not find her, it will make an alarm over the Town, and there may be no occasion.

Mr Cowper, Did your Mistress use to stay out all night?

Walker, No, never.

Mr Cowper, Have not you said so?

Walker, I never said so in my life.

Mr Cowper, Pray Mrs Walker did you never take notice that your Mistress was under Melancholy?

Walker, I don't say but she was melancholy; she was ill for some time, and I imputed it to her illness, and I know no other cause.

Mr Cowper, Have you not often told people that your Mistress was a melancholy person, upon your Oath?

Walker, I have said she hath been ill, and that made her melancholy.

Mr Cowper, I will ask you this question; Pray did you ever purchase any Poison, more or less, within these twelvemonths?

Walker, Yes Sir, I did so, and can tell what it was for.

Mr Cowper, By whose order?

Walker, By my own order.

Mr Cowper, Did you buy Poison but once, upon your Oath?

Walker, I believe I might buy twice.

Mr Cowper, Where?

Walker, Of Mr Ludman.

Mr Cowper, Both times there?

Walker, Yes.

Mr Cowper, Of him?

Walker, No, of the young man.

Mr Cowper, Did you ever buy any Poison at Luton?

Walker, No.

Mr Cowper, Did you ever buy any by your Mistress's order, or of one Mrs Crooke, upon your Oath?

Walker, No, I never did.

Mr Cowper, Pray at what time was it you bought this Poison you speak of?

Walker, I can't remember.

Mr Cowper, Pray recollect your self.

Walker, It was within this half Year to be sure.

Mr Cowper, What was the name of the Poison you askt for?

Walker, I askt for white Mercury.

Mr Cowper, She saith I past by her Mistress's house, and went directly to Mr Barefoot's, pray did not you come to Mr Barefoot's after me?

Walker, Yes Sir.

Mr Cowper, Pray did you give the same account before the Coroner, when this matter was enquired into, that you have now done?

Walker, Yes I did as near as I can tell.

Mr Cowper, Did you give this account in substance?

Walker, Yes I did.

Mr Baron Hatfell, Mr Cowper, I suppose you don't mean in relation to the Poison.

Mr Cowper, My Lord I mean in relation to so much of the Evidence which she now gives, and particularly respects me. For what end or purpose did you buy it?

Wal. I bought it to poison a Dog.

Mr Cowper, Why should you poison the Dog?

Walker, It was a Dog that us'd to haunt our House, that did us a great deal of mischief, but that did not do, so I bought it a 2d time.

Mr Cowper, Who gave it to the Dog?

Walker, 'Twas another maid did give it to the Dog.

Mr Cowper, Why did you then swear it was given the Dog.

Walker, Sir I saw it given.

Mr Cowper, Did your Mistress know of it?

Walker, Yes she did know of it afterwards.

Mr Cowper, How did you give it?

Walker, In warm Milk.

Mr Cowper, How did the Milk look?

Walker, It did not look discolour'd in the least.

Mr Baron Hatfell, You said just now your Mistress was ill, and that made her melancholy, what illness

was it ?

Walker, My Lord she had a great pain in her Head.

Mr Baron Hatsell, How long had she been troubled with it ?

Walker, Ever since last May was twelvemonths was the beginning of it.

Mr Jones, Did you ever find her in the least inclin'd to do her self a mischief ?

Walker, No, I never did.

Mr Cowper, You bought Poison twice, did you give all the Poison you bought to the Dog ?

Walker, Yes.

Mr Cowper, The first and the last ?

Walker, Yes the whole.

Mr Cowper, How much did you buy ?

Walker, I am not certain how much I bought.

Mr Cowper, Pray what mischief did it do the Dog ?

Walker, I cannot tell, he may be alive till now for ought I know.

Mr Cowper, What mischief did the Dog do ?

Walker, A great deal, he threw down several things and broke them.

Mr Jones, Did *Mr Cowper*, upon your Oath, hear *Mrs Stout* give you order to make his Fire and warm his Bed ?

Walker, He knows best whether he heard it or no ; but he sat by her when she spoke it.

Mr Jones, Did she speak it so as he might hear ?

Walker, Yes she did, for he was nearer than I.

Mr Jones, And did he contradict it ?

Walker, Not in the least.

Mr Jones, Was it the Old or Young Woman, that gave you the order ?

Walker, The Young woman

Mr Cowper, Pray did the Dog lap it, or did you pour it down his Throat, upon your Oath ?

Walker, No, he lapt it upon my Oath.

Mr Jones, Did *Mr Cowper* send for his Horse from your House the next day ?

Walker, I can't say that, I was not in the way.

Mr Jones, Did he come to your house afterward ?

Walker, No I'm sure he did not.

Mr Jones, Was the Horse in your Stable when it was sent for ?

Walker, Yes Sir.

Mr Jones, And he did not come to your House again, before he went out of Town ?

Walker, No Sir.

Mr Jones, Do you know which way he went out of Town ?

Walker, No Sir.

Mr Baron Hatsell, Did *Mr Cowper* use to lodge at your House at the Assizes ?

Walker, No my Lord, not since I came there, the Sessions before he did.

Mr Cowper, Where did you come to invite me to dinner ?

Walker, At *Mr Barefoot's*.

Mr Cowper, Then you knew I was to lodge there ?

Mr Baron Hatsell, Who wrote the Letter on Friday, that *Mr Cowper* was to lodge there ?

Walker, I know not who wrote it, his Wife sent it.

Mr Jones, Did he tell you he would lodge there that night before he went away ?

Walker, When he went from Dinner he said so.

Mr Jones, Call *James Berry* (who was sworn) Now, my Lord, we will give Evidence, of the manner how she was found. *Mr Berry*, do you remember when *Mrs Stout* was found by your Mill ?

Berry, No indeed I do not know just what day it was.

Mr Jones, When you found her, do you remember how, in what manner she was found ?

Berry, Yes, I went out in the morning to shoot a flash of water by 6 a Clock, and I saw something a floating in the water, so I went out to see what it was, and I saw part of her Cloaths.

Mr Jones, Did you see her Face ?

Berry, No, not then.

Mr Jones, Was her Face under Water, or above ?

Berry, No part of her Body was above Water, only some part of her Cloaths.

Mr Jones, How many foot deep might the Water be ?

Berry, Five foot deep.

Mr Jones, And how much was she under Water, do you conceive ?

Berry, She might be under Water about 5 or 6 inches.

Mr Jones, Then her whole Body was not under Water, was it ?

Berry, Yes.

Mr Jones, Was her Face under Water ?

Berry, Yes.

Mr Baron Hatsell, Did she lie upon her face, or her back ?

Berry, She lay upon her side.

Mr Jones, When she was taken out, were her eyes open or shut ?

Berry, Her eyes were open.

Mr Jones, Was she swell'd with Water ?

Berry, I did not perceive her swell'd ; I was amaz'd at it, and did not so much mind it as I should.

Mr Jones, But you remember her eyes were staring open ?

Berry, Yes.

Mr Jones, Did you see any marks or bruises about her ?

Berry, No.

Mr Cowper, Did you see her legs ?

Berry, No, I did not.

Mr Cowper, They were not above Water ?

Berry, No.

Mr Cowper, Could you see them under Water ?

Berry, I did not so much mind it.

Mr Cowper, Did she lie straight or double, driven together by the stream ?

Berry, I didn't observe.

Mr Cowper, Did you not observe Weeds and Trumpery under her ?

Berry, There was no Weeds at that time thereabouts.

Mr Jones, Was the Water clear ?

Berry, No, it was thick Water.

Mr Jones, Was there any thing under her in the Water, to prevent her sinking ?

Berry, No, I do not know there was, she lay on her right side, and her right arm was driven between the stakes, which are within a foot of one another.

Mr Jones, Did any thing hinder her from sinking ?

Berry, Not that I saw.

Mr Jones, Did you help to take her out from the stakes !

Berry, No.

Mr Jones, Call *John Venables*.

Mr Cowper, *Mr Berry*, if I understand you right, you say her right arm was driven between the stakes, and her head between the stakes, could you perceive her right arm, and where was her left arm ?

Berry, Within a small matter upon the Water.

Mr Baron Hatsell, Did you see her head and arm between the stakes ?

Berry, Yes, her arm by one stake, and her head by another.

Mr Jones, Did the arm hang down, or how ?

Berry,

Berry, I did not mind so much as I might have done.

(Then John Venables was Sworn)

Mr. Jones, Did you see Mrs Stout when she was taken out of the Water, and as she lay in it?

Venables, Yes.

Mr. Jones, Give an account how you found her.

Venables, She was floating upon the Water.

Mr. Jones, How; Was all her Body, or what part in the Water?

Venables, She lay upon her right side, and this arm upon the Water, rather above the Water, her Ruffles were above the Water.

Mr. Jones, Did you help to take her out?

Venables, No Sir.

Mr. Jones, Were her eyes open?

Venables, Her eyes were open when I saw her, but I did not see her when she was taken out.

Mr Jones, Did any thing hinder her from sinking?

Venables, I saw nothing to hinder her if she would have sunk.

Mr Jones, Call Leonard Dell (Who was Sworn) Did you see this Mrs Stout in the Water?

Dell, Yes.

Mr Jones, Pray tell us in what posture she was found.

Dell, I saw her floating in the River, I saw her Face and her Cloaths.

Mr Jones, Were her Cloaths all above the Water?

Dell, Her Stays and her Coat that she had next her.

Mr Jones, Were these plainly above the Water?

Dell, Some part of them.

Mr Jones, Did you see her face, was that above the Water?

Dell, No Sir, it was between the Piles, she lay on her right side, and her head was between the stakes, and her right arm.

Mr Jones, Did you help to take her out of the Water?

Dell, Yes.

Mr Jones, Did any thing hinder her from sinking?

Dell, Neither stakes nor any thing there.

Mr Jones, Did her arms or neck stick to the stakes?

Dell, Not to my thinking.

Mr Jones, Was the Water clear, or weedy?

Dell, It was very clear.

Mr Jones, How many foot deep was it?

Dell, I know not but it might be 5 foot deep.

Mr Jones, Did you help to take her out of the Water?

Dell, Yes Sir, and we took her and carried her into the meadow just by, and laid her on the bank.

Mr Jones, Did you observe her face, neck or arms to be bruised?

Dell, I saw no bruise at all.

Mr. Cowper, How did you know but her right arm did reach to the ground, since you did not see it?

Dell, We could see her arm lie in this manner between the Piles, the right arm was downwards, for she lay on one side.

Juryman, Did you see any arm above in the Water?

Dell, No.

Mr. Baron Hatsfell, You should propose your Questions to the Court.

Jurym. My Lord, I desire to know where was her left arm.

Mr. Baron Hatsfell, Where was her left arm?

Dell, I can't tell how it did lie, I did not observe it.

Mr. Baron Hatsfell, When you took her out of the Water, did you observe her body swell'd?

Dell, We carried her into the meadow, and laid her on the bank side, and there she lay about an hour and then was order'd to be carried into the Miller's.

Mr. Baron Hatsfell, Did you observe that any Water was in her body?

Dell, None at all that I could see, but there was some small matter of froth came from her mouth and nostrils.

Juryman, My Lord, I desire to know whether her Staves were lac'd?

Dell, Yes she was lac'd.

Mr. Cowper, Ay, I take you right, you say she was strait-lac'd.

Dell, Her Staves were lac'd.

Mr. Cowper, And you say there was froth and foam came out of her mouth and nostrils?

Dell, Yes Sir.

Mr Jones, Pray what quantity?

Dell, I could hold it all in the palm of my hand.

Mr. Cowper, How was she taken out of the Water?

Dell, My Lord, we stood upon the Bridge, I and another man, where she lay, and he laid hold of her, and took her out.

Mr Jones, And did you not perceive she was hung?

Dell, No, my Lord.

Mr Cowper, Pray where was she laid when she was taken out?

Dell, In the place called the Hoppers just by.

Mr Cowper, How long did she lie there?

Dell, About an hour.

Mr Cowper, Did you stay there all that time?

Dell, Yes.

Mr Cowper, And did the froth continue to issue from her mouth and nostrils?

Mr. Baron Hatsfell, He told you, Mr Cowper, he could hold it all on the palm of his hand.

Mr Jones, Call John Ulfe (Who was Sworn)

Did you see Mrs Stout when she was taken out of the Water?

Ulfe, Yes.

Mr Jones, Give an account of the condition she was in.

Ulfe, She lay on one side, I help'd to take her out.

Mr Jones, Did she hang or stick by any thing?

Ulfe, There was nothing at all to hold her up; she lay between a couple of stakes, but the stakes could not hold her up.

Mr Jones, Did you see her after she was taken out.

Ulfe, Yes.

Mr Jones, Did any Water come out of her?

Ulfe, Nothing at all, only a little froth came out of her nostrils.

Mr Jones, Call Karb. Dew.

(Who was Sworn)

Did you see Mrs Stout taken out of the River?

Dew, Yes.

Mr Jones, Did you see her in the River before?

Dew, Yes Sir.

Mr Jones, How did she lie in the River?

Dew, She lay side ways, with her Eyes broad open, and her Teeth clenched fast into her Head, with

with Water flowing a little from her Face, some Part of her, and her Petticoats, were above Water.

Mr. Jones, Did nothing hold her from sinking? Dew. Her right Arm lay against the Stake.

Mr. Jones, Did you see her after she was taken out of the River? Dew. Yes Sir.

Mr. Jones, Was she swelled? Dew. I did not perceive she was swell'd at all.

Mr. Jones, Did you handle her? Dew. No, I touch'd nothing but her Petticoat.

Mr. Jones, Did you observe her Legs were in the Water? Dew. No, I did not.

Mr. Cowper, Did you see where her right Arm was? Dew, I could not see her right Arm, the Water flow'd over it.

Mr. Jones, Did you see her after this time? Dew, No, Sir, I saw her taken out, but not afterwards.

Mr. Bar. Hatfield, Did you see her after she lay on the Ground? Dew, Yes, my Lord.

Mr. Bar. Hatfield, How was she then? Dew, She purg'd at the Nose and one of her Eyes; I did not take particular Notice after she was out, the Notice I took was when she was in the Water.

Mr. Bar. Hatfield, What did you see at her Eye? Dew, Froth, my Lord.

Mr. Jones, Did you see her after she was stripp'd naked? Dew, No, my Lord.

Mr. Jones, Was it a settled frothing, or a purging? Dew, A purging Froth?

Mr. Bar. Hatfield, Did any Body wipe it off? Dew, No, my Lord, I did not see any Body do it.

Mr. Bar. Hatf. Then there was no new Froth come? Dew, No, my Lord, I saw her froth at the Nose and one of the Eyes, as soon as she was taken out, but I did not stay long.

Mr. Cowper, Was she in her Stays? Dew, Yes, Sir.

Mr. Cowper, Was she not laced? Dew, Yes, she was laced before and behind.

Mr. Jones, Call Thomas Dew (who was Sworn.) Did you see this Mrs. Stout in the Water? Pray give my Lord and the Jury an Account what Posture she was in.

Dew, I saw her lying in the Water floating, above the Water I will not say, but the Water run some small Matter over her, her right Arm was within the Stake, and her left Arm without, she lay just upon her side, and I saw her when she was first taken up, and her Shoes and Stockings were as clean as when they were put on, no Mud nor Dirt upon them; and I saw her Shoes and her Stockings, as high as her Knee almost, but I saw no Dirt.

Mr. Jones, Do you believe that she had been sunk to the bottom? Dew, She did not look as if she had, nor I saw no Water come from her.

Mr. Jones, Did you observe, that she was swelled at all? Dew, No, nor swelled that I perceived abt; there was a little Froth that came out of her Nose, and about her (I cannot say from her Eye) in that it was a small Quantity.

Mr. Jones, Call Mr. Edward Blackno (who was Sworn.) Did you see Mrs. Stout, when she lay in the Water? Blackno, Yes, I did see her lye in the Water floating; I was so near, that I saw the Miller's Man lift her up by one of her Arms out of the Water.

Mr. Jones, Was the Arm bent or straight? Blackno, It hung in this Manner (showing the Court how with his own Arm.)

Mr. Bar. Hatfield, The other Witnesses said, she lay on her right side.

Blackno, Yes, she lay on her right side, and her Arm in this manner.

Mr. Bar. Hatfield, Did you observe her to be swelled? Blackno, I did not see her taken out.

Mr. Bar. Hatfield, Did you observe any thing to hinder her from sinking? Blackno, No, I did not; nothing but the Water.

Mr. Cowper, I think, Sir, if I heard you right, you say, that this taking by the Arm, and stirring her, was before she was taken out of the Water; then I would know, after she was stirred, was she let go again; was you by at the taking of her up? Blackno, No, I was not.

Mr. Bar. Hatfield, He told you she was floating when he saw her, and that nothing hindred her from sinking.

(Then William Edmunds and William Page were sworn.)

Mr. Jones, Edmunds, did you see Mrs. Stout when she was in the Water? Edmunds, Yes, Sir.

Mr. Jones, Give an Account what Posture she was in.

Edmunds, She lay against the Stake, her Head lay against the Stake in the River; we were coming up in a Barge, and called to a Miller to draw the Water, but he said, he could not, for then she would swim through; and then we came on, and see her lye in the Water.

Mr. Jones, Did any thing hinder her from sinking? Edmunds, Not that I saw.

Mr. Jones, Did no part of her Legs or Arms stick? Did you see her taken out? Edmunds, No, I did not, I was gone; I did not know whether they would take her out or no.

Mr. Jones, Page, did you see Mrs. Stout upon the Water? Page, Yes, Sir.

Mr. Jones, Tell us how she lay. Page, She lay floating in the Water on her right side, with her Head between the Stakes.

Mr. Jones, Did her Arms, or Cloaths, or any thing stick? Page, Not that I saw.

Mr. Jones, Did any thing hinder her from sinking? Page, I saw nothing.

Mr. Cowper, Did you see her Legs or Knees? Page, No, I could not, they were not out of the Water.

Mr. Jones, Swear Mrs. Anne Ulfe (which was done.) Did you see Mrs. Stout in the Water? Mr. Jones, Tell us how she lay.

Ulfe, Yes, I helped to pull her out; she lay on one side in the Water floating, and the Water came over her Face.

Mr. Jones, Did she stick by any thing? Ulfe, One of her Arms was about the Post.

Mr. Jones, How? Ulfe, It got through the Grate.

Mr. Jones, But it did not hang? Ulfe, No.

Mr. Jones, Did you take her out? Ulfe, Yes, Sir.

Mr. Jones, Did you mind her Cloaths? Ulfe, Yes, I turned up her Petticoat in the Water.

Mr. Jones, Had she Gloves on? Ulfe, No, Sir.

Mr. Jones, How were her Shoes and Stockings? Ulfe, They were not muddy, her Stockings were rolled down, she had no Garters on.

Mr. Cowper, You say, one Arm lay through the Stakes, where lay the other? Ulfe, The other was down in the Water.

(Then William How was sworn.)

Mr. Jones, Did you see Mrs. Stout in the Water? How, Yes, Sir, I see her lye upon the Water, she lay afloat; she might lye 3 or 4 Inches deep in the Water.

Mr. Jones, Did any of her Cloaths lye above the Water? How, Some part of her Coats lay above the Water.

Mr. Jones, Did any thing hinder her from sinking? How, I saw nothing; I saw them take her out, and did not perceive she hung any way; she lay with one Arm, and her Head in the Grate, but I did not perceive she hung.

(Then John Meager was sworn.)

Mr. Jones, Well, do you give an Account of what you know of Mrs. Stout being in the Water.

Meager, I saw Mrs. Sarah Stout floating in the Water, her right Arm in the Grate, and her left Arm with the Stream.

Mr. Jones, Did she hang or stick by any thing? Meager, No, neither hang nor stick, she floated.

Mr. Cowper, Did you see some Body go through the Blue-coat Building about 11 a-Clock? Meager, No, Sir, I was abed before 9.

Mr. Jones, Now, my Lord, we will give an Account how she was when she was stripped, and they came to view the Body. Call John Dimsdale, junior (who was sworn.)

Dimsdale,

Dimsdale, My Lord, I was sent for at Night on *Tuesday* the last Assizes——

Mr. Cowper, My Lord, if your Lordship pleases, I have some Physicians of Note and Eminency that are come down from *London*, I desire they may be called into Court to hear what these Chyrurgeons say.

Mr. Bar. Hatsell, Ay, by all means.

Mr. Cowper, My Lord, there is *Dr. Sloane*, *Dr. Garth*, *Dr. Morley*, *Dr. Gilstrap*, *Dr. Harriet*, *Dr. Wollaston*, *Dr. Crell*, *Mr. William Cowper*, *Mr. Bartlett*, and *Mr. Camlin*. (Who respectively appeared in Court.)

Mr. Jones, Give an Account how you found *Mrs. Stout*.

Mr. Bar. Hatsell, You are a Physician, I suppose, Sir.

Dimsdale, A Chyrurgeon, my Lord. When I was sent for to *Mrs. Stout's*, I was sent for two or three times before I would go; for I was unwilling after I heard *Mrs. Stout* was drowned; for I thought with my self, what need could there be of me when the Person was dead; but she still sent, and then I went with *Mr. Camlin*, and found a little Swelling on the side of her Neck, and she was black on both sides, and more particularly on the left side, and between her Breasts up towards the Collar-bone; that was all I saw at that time, only a little Mark upon one of her Arms, and I think upon her left Arm.

Mr. Jones, How were her Ears?

Dimsdale, There was a settling of Blood on both sides the Neck, that was all I saw at that time.

Mr. Jones, How did you think she came by it?

Dimsdale, Truly I only gave an Account, just as I say now, to the Gentlemen at that time, I saw no more of it at that time; but about six Weeks after the Body was opened by *Dr. Phillips*——

Mr. Cowper, My Lord, he is going to another piece of Evidence, and I would ask him——

Mr. Jones, Let us have done first; how was her Ears?

Dimsdale, There was a blackness on both Ears, a settling of Blood.

Mr. Jones, Call *Sarah Kimpson*.

Mr. Bar. Hatsell, *Mr. Cowper*, now you may ask him any thing, they have done with him.

Mr. Cowper, I would ask him, whether he was not employed to view these particular Spots he mentions at the Coroner's Inquest.

Dimsdale, I was desired to look upon the Face, Arms, and Breast, because they said there was a settling of Blood there. *Mr. Cowper*, When you returned to the Coroner's Inquest, what did you certify as your Opinion?

Dimsdale, I did certify there was a settling of Blood, but how it came I could not tell.

Mr. Cowper, I ask you, Sir, did not you say it was no more than a common Stagnation usual in dead Bodies?

Dimsdale, I do not remember a word of it.

Mr. Cowper, Sir, I would ask you, you say the Spot was about the Collar-bone, was it above or below?

Dimsdale, From the Collar-bone downwards.

Mr. Cowper, Had she any Circle about her Neck?

Dimsdale, No, not upon my Oath.

Mr. Jones. Swear *Sarah Kimpson* (she was sworn.) Did you observe this *Mrs. Sarah Stout* when she was stripped, how her Body was? *Kimpson*, Yes. *Mr. Jones*, Pray give an Account of it.

Kimpson, She had a great Settlement of Blood behind her left Ear, as much as my Hand will cover, and more; and she had a settlement of Blood under her Collar-bone.

Mr. Jones, Did you see nothing about her Neck?

Kimpson, Nothing round her Neck; on the side of her Neck there was a Mark.

Mr. Jones, Was there any other part bruised?

Kimpson, Only her left Wrist, and her Body was very flat and lank.

Mr. Cowper, Pray what Day was it that you saw her?

Kimpson, It was the Day she was found.

Mr. Cowper, Was she not laced?

Kimpson, She was laced.

Mr. Cowper, Did you help to strip her?

Kimpson, Yes Sir,

Mr. Jones, Did her Body seem to be swell'd, or was there any Water come from her?

Kimpson, I did not observe the least drop of Water that appeared any way.

Mr. Jones, Do you know what did purge from her?

Kimpson, Nothing that I saw.

Mr. Jones, Had not you a Child drowned there lately?

Kimpson, Yes about 10 Weeks ago.

Mr. Jones, And you found her?

Kimpson, She was drowned at Night, and we found her next Morning.

Mr. Jones, Where did you find her, at the top, or at the bottom of the Water?

Kimpson, At the bottom.

Mr. Jones, How was she?

Kimpson, She was swell'd as much as she could hold.

Mr. Jones, Were her Eyes shut or open?

Kimpson, Her Eyes were shut, and the Child was laced as tight as the Coat could be.

Mr. Jones, Was the Child opened?

Kimpson, Yes.

Mr. Jones, And what was in the Body of the Child?

Kimpson, 'Twas very full of Water.

Mr. Jones, Call *Sarah Peppercorn*.

Mr. Cowper, You say you viewed the Child, had it any settlement of Blood?

Kimpson, I saw none.

Mr. Cowper, And you viewed the Body?

Kimpson, Yes.

(Then *Sarah Peppercorn* was sworn.)

Mr. Jones, Did you see the Body of *Mrs. Sarah Stout*, after it was stripped and laid out?

Peppercorn, I did Sir.

Mr. Jones, In what condition did you find her?

Peppercorn, I did not see her till she was brought home to her Mothers, and there was a Rumour in the Town, that she was with Child, and I was sent for to give an account whether she were or no, and I found she was not, and I help'd to pull off her Cloaths, and she was very clear as any I ever knew, only had a black place on the side of her Head, and in another place about her Ear, but how it came I know not.

Mr. Jones, Did you observe how her Body was?

Peppercorn, Her Body was very well as any Womans could be.

Mr. Jones, Did you observe any Water, or any such thing come from her?

Peppercorn, No.

Mr. Jones, Was there any Purging at her Mouth or Nostrils?

Peppercorn, A little Froth, as any body might have.

Mr. Cowper, At what hour did you see her?

Peppercorn, I believe it might be 9 or 10 a-Clock.

Mr. Bar. Hatsell, In the Morning?

Peppercorn, Yes, Sir, but I can't give a just account of the time.

Mr. Bar. Hatsell, what was you sent for?

Peppercorn, To know if she was with Child; for it was reported she had drowned herself because she was with Child, and so her Mother desired me to come to give an Account that it was not so, and I found it was not so.

Mr. Bar. Hatsell, You are a Midwife, are you not?

Peppercorn, Yes, my Lord.

(Then *Eli. Huffer* was Sworn)

Mr. Jones, Had you the View of the Body of *Mrs. Sarah Stout*, the day you heard she was drowned?

Huffer, She was not drowned, my Lord, I went thither and helped to pull off her Cloaths.

Mr. Jones, In what condition was her Body?

Mr *Husker*, Her Body was very lank and thin, and no Water appeared to be in it.

Mr. *Jones*, Was there any Water about her Mouth and Nose? *Husker*, Not when I saw her.

Mr. *Jones*. Did you mind her about her Neck and Head?

Husker, Yes, Yes, there was a settling of Blood at the top of the Collar-bone, just here, and there was a settling of Blood upon both her Ears, most about her left Ear.

Mr. *Jones*, Swear *Ann Pilkinton*, (which was done) did you see the Body of Mrs. *Stout* after she was drowned?

Pilkinton, Yes Sir. Mr. *Jones*, Pray in what condition was she when she was stript?

Pilkinton, I was in the House when she was brought in dead, and old Mrs. *Stout* desired me to help to lay her out, and taking a view of her, I did not at all perceive her Body to be Swelled.

Mr. *Jones*, Was there any Water came out upon the moving of it?

Pilkinton, No, I did not perceive any; and by a further view, I saw a redness on the left side of her Head, and her Ear was black, and there was a little mark upon her Breast, on the left side.

Mr. *Jones*, What colour was it of?

Pilkinton, It seemed, reddish and blackish, as to colour it was like a settling of blood; I can't tell how to make it out very well.

Mr. *Cowper*, Had she any circle round about her Neck?

Pilkinton, No, nor that I see.

Mr. *Cowper*, Pray did not you make some Deposition to that purpose, that you know of?

Pilkinton, Sir, I never did, and dare not do it.

Mr. *Cowper*, It was read against me in the *Kings Bench*, and I will prove it, was not Mr. *Mead* with you at the time of your Examination?

Pilkinton, Yes.

Mr. *Cowper*, Did not he put in some Words, and what were they? *Pilkinton*, Not that I know of.

Mr. *Cowper*, But you never swore so, upon your Oath?

Pilkinton, No, I don't believe I did, if I did it was ignorantly.

Mr. *Jones*, Here is her Examination, it is cross her Neck.

Mr. *Cowper*, Was Mr. *Young* of *Hertford*, the Constable, present when you were Examined?

Pilkinton, Yes he was so. The next Day Mrs. *Stout* sent for me again, to put on her Daughters Shroud, and I was one that helped to draw the Sheet away, and there was not one drop of Water came from her, and I laid a Cloth under her Chin, when I helped her into the Coffin, but I did not see the least moisture come from her.

Mr. *Cowper*, What day was it, that you put her into the Coffin?

Pilkinton, The next day after she was dead.

Mr. *Cowper*, Do you know nothing of her being convey'd into the Barn?

Pilkinton, I hapned to be in the Barn, Mrs. *Stout* desired me to go with her, and she was brought up in an indecent manner, and I put a Sheet about her. I was in Mrs. *Stout's* House before her Daughter was brought thither.

Mr. *Jones*, Call Dr. *Coatsworth*, Dr. *Nailer*, Dr. *Woodhouse*, Dr. *Bide*.

(Mr. *Coatsworth* was Sworn)

Mr. *Jones*, Pray Doctor, had you a view of the Body of Mrs. *Stout*?

Coatsworth, Yes, I had, Sir, I am a Surgeon.

Mr. *Jones*, Pray give an account of it, and what your Opinion was how she came by her death.

Coatsworth, My Lord, in April last I was sent for by Dr. *Philips*, to come to *Hartford*, to see the Body of Mrs. *Stout* opened, who had been 6 Weeks buried, and he told me that there was a suspicion she was murdered, and that her Relations were willing to have her taken up and opened. I came down, I think on the 27th of April, and lay at Mrs. *Stout's* House that Night, and by her discourse I understood she wanted to be satisfied, whether her Daughter was with Child. I told her it was my Opinion we should find the Parts contained in the Abdomen so rotten, that it would be impossible to discover the Uterus from the other Parts; however, if she would have her opened, I could not discover whether she was with Child, unless the Infant was become bony. Her Face and Neck to her Shoulders appeared black, and so much Corrupted, that we were unwilling to proceed any further; but however, her Mother would have it done, and so we did open her, and as soon as she was opened, we perceived the Stomach and Guts were as full of Wind, as if they had been blown with a pair of Bellows; we put her Guts aside, and came to the Uterus, and Dr. *Philips* shewed it us in his Hand, and afterwards cut it out and laid it on the Table, and opened it, and we saw into the Cavity of it, and if there had been any thing there as minute as a Hair, we might have seen it, but it was perfectly free and empty; and after that he put the Intestines into their places, and we bid him open the Stomach, and it was opened with an Incision Knife, and it sunk flat, and let out Wind, but no Water; afterwards we opened the Breast and Lobes of the Lungs, and there was no Water; then we look'd on each side, and took up the Lobes of the Lungs too, to see if there was no Water in the Diaphragm, and there was none, but all dry. Then I remember, I said this Woman could not be drowned, for if she had taken in Water, the Water must have rotted all the Guts; that was the construction I made of it then, but for any marks about her Head and Neck, it was impossible for us to discover it, because they were so rotten.

Mr. *Cowper*, You say, this inspection was made about six Weeks after she was dead?

Coatsworth, It was made on the 28th of April. Mr. *Cowper*, She was drowned on the 13th of March.

Mr. *Jones*, Did you make an incision into those Parts of the Neck and Head.

Coatsworth, No, I told Mrs. *Stout* and her Son, if you imagine the Skull to be injur'd, I will open the Head, for if the scalp be never so rotten, yet if the Skull has suffered any impression, I shall discover it, they said, they did not suspect a broken Skull in the case, and so we did not examine it.

Mr. *Jones*, But all the other Parts were found?

Coatsworth, Yes, found to a miracle, for I did not imagine we could find them so.

Mr. *Jones*, Call *John Dimsdale*. Mr. *Cowper*, My Lord, I would know, and I desire to be heard to this Point; I think where the Coroners Inquest have view'd the Body, and the relations have been heard, and the Body buried, that 'tis not to be stir'd afterwards for any private inspection of Parties, that intend to make themselves Prosecutors, but if it is to be taken up, it is to be done by some legal authority, for if it should be otherwise, any Gentleman may be easily trepan'd, for instance, if they should have thought fit after the Coroners View, to have broken the Skull into a hundred pieces. This was a private View altogether among themselves, certainly if they intended to have Prosecuted me, or any other Gentleman upon this Evidence, they ought to have given us notice, that we might have had some Surgeons amongst them, to superintend their Proceedings. My Lord, with submission, this ought not to be given in Evidence.

Mr. *Bar. Hatfield*, Mr. *Cowper*, I think you are not in earnest, there's no colour for this objection, if they did take up the Body without notice, why should not that be Evidence, unless you think they had a design to forswear themselves.

Mr. *Cowper*, Had you a *Melius Inquirendum*, or any lawful warrant for making this inspection? *Coatsworth*, No, there was not. Mr. *Bar. Hatfield*, Suppose they did an ill thing in taking up the Body without some order, tho' I don't know any more ill in taking up that Body, than any other; but however, is that any reason why we should not hear this Evidence.

Coatsworth,

Coatsworth, Mr Camlin, Sir W. Cowper's Surgeon was thereby.

Mr Jones, Call Mr Dimsdale Senior, (who was sworn). Had you a View of the Body after it was taken up?

Dimsdale, Yes.

Mr Jones, Pray give your Opinion of it?

Dimsdale, On the 28th of April, as I remember, I was sent for down by Mrs Stout, to view the Body of her Daughter. Her Daughter was just taken out of the Ground, but not opened, they had just toucht the Body, but not opened the Skin when I came there—

Mr Bar. Hatsell, Are you a Surgeon?

Dimsdale, Yes, my Lord. Finding her Head so much mortified down to her Neck, we thought all the Parts were seized, and had a consultation whether we should open her or not, but Mrs Stout was very much enraged, because a great scandal had been raised, that her Daughter was with Child, and she said, she would have her opened to clear her Reputation; with that we opened her, and found her Body as found as any Flesh could be, no manner of putrifaction in her Lungs, or any other Part, but she was very full of Wind. We searched the Stomach and the Thorax, and found not one drop of Water about it, I was more curious than the rest, and turn'd away her Legs, to see if the Coffin was soil'd, and the Coffin and Shroud were not wet. Her Uterus was taken out, and I saw no manner of sign of Conception. After this we had a consultation to consider, whether she was drowned, or not drowned, and we were all of Opinion that she was not drowned, only Mr Camlin desired he might be excused from giving his Opinion, whether she was drowned or not, but all the rest of us did give our Opinions, that she was not drowned.

Mr Jones, Give your Reasons, why you believed she was not drowned. *Dimsdale*, My Reason was this, because we found no Water in her, her Intestines were not putrified, for if there had been Water in her, that would have caused a fermentation, and that would have rotted the Lungs and Guts.

Mr Bar. Hatsell, Could you tell so many Weeks after, whether she was drowned or no?

Dimsdale, Yes, my Lord, for this Reason, for if she had been drowned, there had been some sign of Water, and if there had been a Pint of Water, it would have rotted her Lights and her Guts, and that is done in a Weeks time by fermentation.

Mr Cowper, Sir, I desire to know, whether according to Reason and your Skill after six Weeks time, it's possible, there should be Water in the Thorax.

Dimsdale, I do believe there may be some, for it can't come out after the Body is dead, but by putrifaction, and there was no putrifaction, but it was firm and found.

Mr B. Hatsell, What Parts would have been putrified by the Water?

Dimsdale, The Lungs and Bowels.

Mr Bar. Hatsell, And they were firm?

Dimsdale, They

were, and if there had been Water, they would have been putrified.

Mr Jones, Call John Dimsdale,

Junior.

Juryman, Was her Navel started?

Dimsdale, Sen. No, I never saw such a Body

in my Life.

Mr Cowper, Did you ever see a Body that was drowned, and opened six Weeks after?

Dimsdale, Sen. No, never. If a Body be drowned a Fortnight, the Bowels will be so rotten, there will be no coming near it, and I took particular notice, and I did not see one drop of Water.

Mr Bar. Hatsell, Was the Coffin close?

Dimsdale, Sen. Yes, it was close and dry as any board what-

soever, and all the Parts found, but the Head and Neck, and left Arm.

Mr Jones, What do you

think could be the Reason of that?

Dimsdale, Sen. The left Arm was rottener than the other,

the Neck was rotten before.

Mr Jones, What did you take to be the cause of it?

Dimsdale, Sen. I can't judge of, that.

Call John Dimsdale, Junior, (who was sworn.)

Dimsdale, Jun. My Lord, the Body was opened before I came to see it, and they were drawing up an Affidavit, that there was no Water in the Body, and they desired me to Sign it; but I desired first to look into the Body, and I did look into it, and turn'd the Intestines aside, and there was no Water in it, but the Head from the Neck was very much putrified.

Mr Jones, Do you believe she was drowned?

Dimsdale, Jun. No, I believe not.

Mr Jones, Did you open the Child that was drowned? What

difference was there between the Body of that Child and this?

Dimsdale, Jun. The Child was extremely swell'd in the Belly and Stomach, and had abundance of Water in it.

Mr Jones, Was the

Child lac'd that you opened?

Dimsdale, Jun. It was laid upon the Table before I came.

Mr Cowper, How long was it before the Child was opened?

Dimsdale, Jun. It was drowned in

the Afternoon, and opened the next Morning.

Mr Cowper, You said, Sir, you was ask'd to Sign the Affidavit before you saw the Body, and you were honest, and would see the Body first, Pray who askt you?

Dimsdale, Jun. All of them did.

Mr Cowper, Who in particular, if you please name them?

Dimsdale, Jun. Mr Coatsworth, Mr Philips, Mr Camlin, &c. they asked me to set my Hand to it, because they thought I had seen it before.

(Then Dr Dimsdale was Sworn.)

Mr Jones, Mr Robert Dimsdale, Was you at the opening of this Body?

Dr Dimsdale, I came after

it was opened, my Brother and I came together.

Mr Jones, What Profession are you of, a Physician?

Dr Dimsdale, Yes, when the Body was taken up, they desired us to be there, to inspect the Body, but before we came, it hapned they had opened the Body, and were setting their Hands to a Paper, a sort of Affidavit, and when I came in, they would have had us set our Hands, but we would not, till we had look'd upon the Body, and went and laid it open again, and we did not find the least drop of Water neither in the Thorax, nor Abdomen.

Mr Cowper, Is it impossible there should be Water in the Thorax, according to your Skill?

Dr Dimsdale, Yes, we did think there would have been, if she had been drowned.

Mr Bar. Hatsell, Could you expect to find it, so long as six Weeks after.

Dr Dimsdale, We should

have expected that or a putrifaction, but we found no putrifaction, neither in the Bowels, nor Intestines, but only upon her Head and Shoulders, and one Arm.

Mr Cowper, Pray by what Passage does the Water go into the Thorax.

Dr Dimsdale, 'Twill be very difficult for me to describe the manner here, but we should have found some in the Stomach and Intestines.

Mr Cowper, Pray Sir, how should it go into the Thorax?

Dr Dimsdale, By the Lymphaduct, if carried by any means.

Mr Cowper, When the Party is dead, Can any Water pass into any Part of the Body?

Dr Dimsdale, We opened the Abdomen of the Child that was drowned, and found in the several Cavities abundance of Water.

Mr Jones, When a Person is dead, Can they receive any Water after?

Dr Dimsdale, No, for all the Parts are clos'd and contracted.

Mr Cowper, Pray if a dead Body be put into the Water, will not the Water come into the Wind-pipe?

Dr Dimsdale, I question whether it will or no.

Mr Jones, Was her Mouth shut?

Dr Dimsdale, She was putrified about the Head and Shoulders, and one Arm, that I saw was putrified, it was the left Arm as I take it.

Mr Jones, What is your Opinion as to her Death?

Dr Dimsdale, I believe if she had been drowned, there would have been a putrifaction of the Abdomen first, and it was her extrem Parts, her Arm, her Head, and her Breast, that was putrified, but her Bowels seem'd firm and found.

Mr Jones, Then you don't think her Death was by drowning?

Dimsdale, No.

Mr Cowper, Pray did not you give some Certificate or Paper, declaring the Death of this Gentlewoman, before you saw the Body at all?

Dr Dimsdale,

Dr Dimfdale, No I did not.

Mr Cowper, Sir, I would ask you, was not you angry, that Mr Camlin would not join with you in opinion?

Dr Dimfdale, No.

Mr Cowper, Pray did not you tell him, that you were a graduate Physician, and was angry he would not join with you?

Dr Dimfdale, Suppose I did.

Mr Bar. Hatffell, But did you so or no?

Dr Dimfdale, Yes, my Lord, we had some words about it.

Mr Jones, Swear Dr Coatfworth. (which was done) Now, my Lord, we call these Gentlemen that are Doctors of Skill, to know their opinion of them that are found floating without Water in them, how they come by their death.

Dr Coatfworth, I have not seen many drowned bodies to make observation upon, but it is my opinion, that every body that is drowned is suffocated by Water passing down the Wind-pipe into the Lungs upon inspiration, and at the same time, the Water pressing upon the Gullet, there will be a necessity of swallowing a great part of it into the Stomach: I have been in danger of being drowned my self, and I was forced to swallow a great quantity of Water. If a Person was drowned and taken out immediately, as soon as the suffocation was effected, I should not wonder, if there were but little Water in the Stomach and Guts, but if it lay in the Water several Hours, it must be very strange if the belly should not be full of water; but I will not say, it is impossible it should be otherwise.

Mr Cowper, I desire to know whether this Gentleman attempted to drown himself, or was in danger of being drowned by accident.

Dr Coatfworth, It was by accident: I was passing up the Ship side, and took hold of a loose Rope instead of the entring Rope, which failing me, I fell into the water.

Mr Cowper, But you struggled to save your self from drowning?

Dr Coatfworth, I did so. I have seen several persons that have been drowned, and they have lain several days, until by a fermentation, they have been rais'd, but I never made my observations of any persons that have been drowned above six hours.

Mr Jones, Did you ever hear of any Persons that as soon as they were drowned had swam above Water?

Dr Coatfworth, I have not known such a Case.

Mr Cowper, Did you ever know, Sir, a body that was otherwise killed to float upon the Water?

Dr Coatfworth, I never made any Observation of that.

Mr Bar. Hatffell, Dr Brown has a learned discourse in his Vulgar Errors upon this subject, concerning the floating of dead bodies, I don't understand it my self, but he hath a whole Chapter about it.

(Then Dr Nailor was sworn.)

Mr Jones, We ask you the same question that Dr Coatfworth was asked; What is your opinion of dead Bodies? If a Body be drowned will it have Water in it or not?

Dr Nailor, My Lord, I am of opinion, that it will have a quantity if it be drowned, but if there be no Water in the Body, I believe that the Person was dead before it was put into the Water.

Mr Cowper, I would ask the Doctor one question, my Lord; Whether he was not a constant Voter against the Interest of our Family in this Corporation?

Dr Nailor, I never did come to give a Vote, but Sir William Cowper, or his Son oppos'd me, and said, I had no right to Vote.

Mr Cowper, I would have ask'd the same question of the Dimfdales, if I had remembred it; they are of another Party, as this Gentleman is.

Mr Bar. Hatffell. It is not at all material as they are Witnesses.

Mr Jones, Then call Dr Babington, (who was sworn)

Mr. Jones, Pray what is your opinion of this matter?

Mr Babington, I am of Opinion that all Bodies that go into the Water alive, and are drowned, have Water in them, and sink as soon as they are drowned, and don't rise so soon as this Gentlewoman did.

Mr Cowper, Pray what is your Profession Sir?

Mr Babington, I am a Chirurgeon.

Mr Cowper, because Mr Jones call'd you Doctor.

Mr Bar. Hatffell, Did you ever see any Bodies drowned?

Mr Babington, Yes my Lord, I once had a Gentlewoman a Patient that was half an hour under Water, and she liv'd several hours after, and in all that time she discharg'd a great quantity of Water; I never heard of any that went alive into the Water, and were drowned, that floated so soon as this Gentlewoman did: I have heard so from Physicians.

Mr Bar. Hatffell, I have heard so too, and that they are forc'd to tye a Bullet to dead Bodies thrown into the Sea, that they might not rise again.

Mr Cowper, The reason of that is, that they should not rise again, not that they will not sink without it; but I would ask Mr Babington, whether the Gentlewoman he speaks of, went into the Water voluntarily, or fell in by Accident?

Mr Babington, By Accident but I believe that don't alter the Case;

Mr Jones, Swear Dr. Burnet, (which was done.)

Dr You hear what is the Matter in question, what is your Opinion of it?

Dr. Burnet, My Lord, I think, that if any Person fall into the Water by Accident, or throws himself in, the Body will receive Water as long as it is alive, and there are Endeavours for Respiration, and after these Endeavours are over, there is no Water will come in, for all the Parts are clos'd; so consequently there must be Water in all probability found in her.

Mr Jones, What do they swim or sink?

Dr Burnet, They sink: I never saw a Person drowned taken up without Water in my life, but I have seen several full of Water.

Mr Cowper, I think you say when the Faculty of Respiration ceases, no Water comes in.

Dr Burnet, Yes, that is my Opinion.

Mr Cowper, But the Water does pass into them while there are Endeavours for Respiration?

Dr Burnet, Yes, that is my Opinion.

Then

Then Dr. Woodhouse was Sworn.

Mr Jones, Dr. What is your Opinion of this Matter ?

Dr Woodhouse, My Opinion is, that no Person is suffocated by Water, but he must have a great deal of Water within him; a great deal of Water in the Stomach, and some in the Lungs.

Mr Cowper, Pray, Sir, did you ever open any of these Bodies ?

Dr Woodhouse, Yes, I have opened a Child my self that had a great quantity of Water in it.

Mr Cowper, Did you find any quantity of Water in the Throat ?

Dr Woodhouse, There was some, but a little, but a great deal in the Stomach.

Mr Cowper, Pray which way can it pass into the Thorax ?

Dr Woodhouse, While the Person is struggling for Respiration, there may be a Relaxation of, and the Person must suck in Water as well as Air, and some Water may get into the Windpipe, and so enter into the Lungs.

Mr Cowper, Is there a Passage from the Lungs to the Thorax ?

Dr Woodhouse, The Thorax is the Vessel wherein the Lungs lie, the Lungs in the Thorax; the Breast is the Cavity where the Lungs lie, the Windpipe is the Conveyance to the Lungs, and a Person in Respiration takes down some Water there, but no doubt the greater quantity will be in the Stomach.

Mr Bar. Hatfield, Pray let me ask you a Question : Some of the Witnesses said, that if a Person be drowned and lies dead a great while, the Inwards will be putrified, what is your Opinion of it ?

Dr Woodhouse, No, doubt, my Lord, where Water gets into the Stomach, or wherever it is, it will putrifie very soon.

Mr Jones, Call Edward Clement (who was sworn) Are not you a Seaman ?

Clement. Yes, Sir.

Mr Jones, How long have you been so ?

Clement, Man, I have writ my self but 6 years, but I have used the Sea 9 or 10 Years.

Mr Jones, Have you known of any Men that have been kill'd, and thrown into the Sea, or who have fallen in and been drowned ; pray tell us the difference as to their swimming and sinking.

Clement, In the Year 89 or 90, in Beachy Fight, I saw several thrown over-board during the Engagement, but one particularly I took notice of, that was my Friend, and kill'd by my side ; I saw him swim for a considerable distance from the Ship, and a Ship coming under our Stern caus'd me to lose sight of him, but I saw several dead Bodies floating at the same time : Likewise in another Engagement, where a Man had both his Legs shot off, and died instantly ; they threw over his Legs, tho' they sunk, I saw his Body float : Likewise I have seen several Men who have died natural deaths at Sea ; they have, when they have been dead, had a considerable weight of Ballast and shot made fast to them, and so throw them over-board ; because we hold it for a general Rule, that all Men swim, if they be dead before they come into the Water ; and on the contrary, I have seen Men when they have been drowned, that they have sunk as soon as the Breath was out of their Bodies, and I could see no more of them : For instance, a Man fell out of the *Cornewal*, and sunk down to rights, and seven days after we weighed Anchor, and he was brought up grasping his Arms about the Cable : And we have observed in several Cases, that where Men fall over-board, as soon as their Breath is out of their Bodies they sink downright ; and on the contrary, when a dead Body is thrown over-board without weight, it will swim.

Mr Jones, You have been in a Fight, how do Bodies float after a Battle ?

Clement, Men float with their Heads just down, and the small of their Back and Buttocks upwards, I have seen a great number of them, some hundreds in Beachy-head Fight, when we engag'd the French, I was in the old *Cambridge* ; at that time I saw several (what number I will not be positive, but they were a great number, I can't guess to a Score) that did really swim, and I could see them float at a considerable distance.

Mr Jones, Have you seen a Shipwreck ?

Clement, Yes, the *Coronation* in September, 1691. I was then belonging to the *Dutchess*, under the Command of Captain Clement, we look'd out and see them taking down their Masts, we saw the Men walking up and down on the right side, and the Ship sunk down, and they swam up and down like a shoal of Fish one after another, and I see them hover one upon another, and see them drop away by scores at a time, and there was an account of about 19 that sav'd themselves, some by Boats, and others by swimming ; but there were no more sav'd out of the Ships Complement, which was between five and six hundred, and the rest I saw sink downright, some 20 at a time. There was a Fisherman brought our Captain word, that in laying in of his Nets he drew up some Men, close under the Rocks, that were drowned, belonging to the *Coronation*, we generally throw in bags of Ballast with them.

Mr Jones, I suppose all Men that are drowned you sink them with Weights.

Clement, Formerly Shot was allow'd for that purpose, there us'd to be threescore Weight of iron, but now its a Bag of Ballast that is made fast to them.

Mr Jones, Then you take it for a certain Rule, that those that are drowned sink, but those that are thrown over-board do not.

Clement, Yes, otherwise why should the Government be at the vast Charge to allow threescore or fourscore Weight of iron to sink every Man, but only that their swimming about should not be a discouragement to others.

(Then Richard Gin was Sworn)

Mr Jones, You hear the Question, pray what do you say to it ?

Gin, I was at Sea a great while, and all the Men that I see turn'd over-board had a great Weight at their Heels to sink them.

Mr Jones, Then will they swim otherwise.

Gin, So they say.

Mr Jones, Are you a Seaman ?

Gin, I went against my Will in 2 Fights.

Mr Jones, Then Gentlemen of the Jury, I hope we have given you Satisfaction that Mrs Stout did not drown her self, but was carried into the Water after she was kill'd : That was the first Question ; for if it be true, that all dead Bodies when they are put into the Water do swim, and the Bodies that go alive into the Water and are drowned do sink ; this is sufficient Evidence that she came by her death, not by drowning, but some other Way : Now, my Lord, as to the second matter, and that is, to give such Evidence as we have against these Gentlemen at the Bar ; Mr. Cowper it appears was the last Man that

ny one can give an account of was in her Company: What became of her afterwards, or where they went, nobody can tell; but the other Witnesses have given you Evidence that he was the last Man that was with her: I shall only give this further Evidence, as to Mr Cowper; That notwithstanding all the Civilities and Kindnesses that pass'd between him and this Family, when the bruit and noise of this Fact was spread abroad, Mr. Cowper did not come to consider and consult with old Mrs Stout what was to be done; but he took no manner of notice of it, and the next Day he rode out of Town, without further taking notice of it.

Call George Aldridg and John Archer.

(John Archer was Sworn)

Mr Jones, Do you know any thing of Mr Cowper's going out of Town after this Business of Mrs Stout's being drowned.

Archer, Yes, I did see him go out of Town afterwards.

Mr Jones, Which Way did he go?

Archer, He went the back Way from the Glove, I suppose he came that Way.

Mr Cowper, What Day was it I went: Is it not the Way that I us'd to go when go I the Circuit into Essex.

Archer, Yes, I believe so.

Mr Cowper, I lodg'd at Mr Barefoot's, and as the back Door of the Glove, where my Horse was, and I went the direct way into Essex, and it was Wednesday morning: What Day was it you see me go?

Archer, It was on the Wednesday morning.

Mr Cowper, That was the very Day I went into Essex.

(Then George Aldridg was Sworn)

Mr Jones, When did Mr Cowper go out of Town the last Affizes?

Aldridg, On Wednesday.

Mr Jones, Which Way did he go?

Aldridg, He went the Way to Chelmsford.

Mr Jones, Did you not fetch his Horse from Stout's?

Aldridg, Yes Sir.

Mr Jones, How often did you go for it?

Aldridg, Three times.

Mr Jones, When?

Aldridg, On Tuesday night I sent once, and went twice myself; the first time there was no body at home to deliver the Horse, so I went to Mr Stout's and ask'd him about the Horse, and he said he could not deliver him till the Maid went home, and then I went about 11 a Clock, and had the Horse.

Mr Bar. Hatfell, Was it 11 at night?

Aldridg, Yes, my Lord.

Mr Cowper, When I sent you to fetch my Horse, what Directions did I give you?

Aldridg, You gave me Directions to fetch your Horse, because you said you should have occasion to go out next morning betimes with the Judge.

Mr Cowper, The reason I sent for my Horse was this; when I heard she had drowned her self, I think it concern'd me in prudence to send a common Hoffer for him, for fear the Lord of the Mannor should seize all that were there as forfeited.

Mr Baron Hatfell, There was no danger of that, for she was found *non compos mentis*.

Mr Cowper, No, my Lord, I sent before the Verdict.

Mr Jones, It seems you did not think fit to go and take Horse there your self, though you put your Horse there.

Now, my Lord, we will go on and give the other Evidence that we open'd concerning these 3 other Gentlemen that came to Town; 2 of them took Lodgings at Gurry's at 5 in the Afternoon, but did not come in till between 11 and 12, and then they brought another in with them, and though he had been in Town 5 or 6 hours, his Feet were wet and his Shoes, and his Head was of a reaky Sweat, he had been at some hard Labour I believe, and not drinking himself into such a Sweat.

Call John Gurrey, Martha Gurrey, and Eliz. Gurrey.

(John Gurrey was Sworn)

Mr Jones, Do you know any of the Gentlemen at the Bar?

Gurrey, Yes.

Mr Jones, Name who you know.

Gurrey, There is Mr Stevens, Mr Rogers, and Mr Marson.

Mr Jones, Pray do you remember when they took Lodgings at your House?

Gurrey, The last Affizes, when they first came there was only Mr Stevens and Mr Rogers.

Mr Jones, At what time did they take it?

Gurrey, I was at Church and can't tell that, they hir'd the Lodging of my Wife.

Mr Jones, What can you say more?

Gurrey, I was in at night when they came, there came 3 of them at 11 at night, whereof Mr Marson was the third Person, and he said he was destitute of a Lodging, and he ask'd for a spare Bed, my Wife told them she had one, but had let it, whereupon Mr Stevens and Mr Rogers said he should lodge with them; so they went up all together, and they call'd for a Fire to be kindled, and ask'd for the Landlord, which was I, and they ask'd me to fetch a Bottle of Wine, and I told them I would fetch a Quart, which I did, and then they ask'd me to sit down and drink with them, which I did; and then they ask'd me if one Mrs Sarah Stout did not live in Town, and whether she was a Fortune, I said yes; then they said they did not know how to come to the sight of her, and I said I would show them her to morrow morning, not questioning but I might see her some time as she was coming down the Street; so they said they would go to see her. Mr Rogers and Mr Stevens charg'd Mr Marson with being her old Sweetheart, saith Mr Marson, she hath thrown me off, but a Friend of mine will be even with her by this time.

Mr Baron Hatfell, What a Clock was it then?

Gurrey, I reckon 11 a Clock when they came in.

Mr Baron Hatfell, Did you observe in what Condition Mr Marson was in?

Gurrey, I did not observe, only that he was hot and put by his Wig, I see his Head was wet, and he said he was just come from London, and that made him in such a heat.

Mr Jones, Had he Shoes or Boots on?

Gurrey, I did not observe that.

Mr Jones, What did they do the next day?

Gurrey, The next morning I heard this Parry was in the VVater, I sat up all night, and was fain to wait till my Daughter came down to look after the Shop, and then I went to see her, and she was removed into the Barn, and they were wiping her Face, closing her Eyes, and putting up her Jaws, and as I came back these Persons were walking, and I met Mr Marson and Mr Stevens, and told them the News:

Said

Said I, this Person is come to a sad Accident ; say they, so we hear, but nevertheless we will be as good as out vword, and go and see her ; I vvent vwith them and overtook Mr Rogers, and Marson said vve are going to see Mrs Stout : O Landlord, said Rogers, you may take up that Rogue (pointing at Mr Marson) for vwhat he said last night, but I did not think, they speaking so jocularly, that there vvas any suspicion of their being concerned in the murder : A second time I vvent, the Barn-door vvas lock'd, I knock'd, and they open'd it and let us in, and they uncover'd her Face to let me see her, and I touch'd her, and looking about for them they vvere gone, and I can't say they see her or touch'd her ; then Mr Marson and they vvere consulting hovv to send a great Coat to London, and I directed them to a Coachman at the Bell-Inn, but I did not hear he vvent to enquire after the Coachman ; then they vvent to your Lordship's Chamber, and I vvent home, and about 11 of the Clock I savv Mr Marson and Mr Stevens coming down vwith Mr Spencer Cowper.

Mr Marson, I did not go out that night after I came in.

Mr Jones, No, we agree that, did you see Mr Cowper and these Gentlemen together ?

Gurrey, Only at 11 a Clock on Tuesday noon, Mr Cowper, Mr Marson, Mr Stevens were coming down to the market-place.

Mr Jones, Did not they take their leave of you when they went away from you that Forenoon ?

Gurrey, No, only in the morning they told me they would send me word at Noon if they intended to lodge there.

Mr Marson, I desire to know of Mr Gurrey, if his Sister was not in the Room when I came in.

Gurrey, She was in our House that day, but whether when they came I can't tell.

Mr Cowper, Pray have not you had some Discourse with your Sister the VVidow Davis, concerning some Suspicion that you had of Sarah Walker, that hath been produc'd as a VVitnesh ?

Gurrey, I don't remember any such.

Mr Cowper, Then didn't you say these VVords ; VVe must not concern our selves with Sarah Walker, for she is the only VVitnesh against the Cowpers.

Gurrey, I can't remember any such thing.

Mr Baron Hatfell, You must answer according to the best of what you remember ; if you say you have forgotten when you have not, you are forsworn.

Mr Cowper, If your Lordship pleases to give leave to Mr Gurrey to recollect himself, I ask him, VWhether he did not talk with his Sister Davis about some Suspicion his VVife and he had about Sarah Walker the maid-servant of the deceased ?

Gurrey, I believe there might be some talk of a Person that was seen to go into the Church-Yard, at some distance with Sarah Walker.

Mr Cowper, Did your VVife say that she did suspect that Person ?

Gurrey, Yes.

Mr Cowper, Did your VVife say they behav'd themselves strangely, and that she'd have perswaded the VVidow Blewit to have watch'd her ?

Gurrey, There was something of that.

Mr Cowper, VWas there not some such VVords, that they must not meddle with Sarah Walker, for she is the VVitnesh against the Cowpers.

Gurrey, I said, Do not concern your self with Sarah Walker for fear of taking off her Evidence.

Mr Cowper, Pray did not the VVidow Davis warm the Sheets for these Gentlemen ?

Gurrey, She was with my Wife, but I can't say whether she warm'd the Sheets.

Mr Cowper, VWhen they came home, had you any Lodgers that wanted to come home ; Had not you one Gape ?

Gurrey, I can't say whether he was in before or after them.

Mr Cowper, Did not you say to your Sister Davis ; Now these Gentlemen are in Bed, if Mr Gape would come home our Familv would be quiet.

Gurrey, I do not remember that.

Mr Cowper, Pray did not you go to look for Mr Gape ?

Gurrey, Yes, I went to Hockley's.

Mr Cowper, VWho did you employ to speak to Mr Gape to come home ?

Gurrey, Mrs Hockley.

Mr Cowper, VWhen you came home to your own House, and after you had been at Hockley's to speak with Mr Gape, what account did you give of the time of Night, and other particulars ?

Gurrey, I gave no account of the time.

Mr Cowper, Not to Mrs Davis ?

Gurrey, I can't tell whether I did or no.

Mr Cowper, Did not you say Mr Gape ask'd Mrs Hockley what a Clock it was ?

Gurrey, No, I don't remember that, bus Mrs. Hockley went in and told him what time of Night it was, it was 11 or 12 a Clock, whether I can't say.

Mr. Jones, Call Martha Gurrey. (who was Sworn)

Which of these Gentlemen do you know ?

Mrs Gurrey, Mr Marson, Mr Rogers, and Mr Stevens.

Mr Jones, What time of the night was it when they came to your House ; give an account of it, and of what you heard them say.

Mrs Gurrey, It was a little after Five or thereabouts, that they came-----

Mr Jones, VWho came ?

Mrs Gurrey, Mr Stevens, and Mr Rogers, and there was one Mr Gilbert that married a first Cousin of mine he came and ask'd me for my Husband, and I ask'd him his Business, and he said he wanted to speak with him-----

Mr Jones, Pray come to these Men, when did they come to your House ?

Mrs Gurrey, They hired the Lodging at 5 a Clock, when they first came to see them I was not at home, Mr Gilbert brought them, and as I was coming along the Street, I saw Mr Gilbert walking off, and would not look at me-----

Mr Jones, When did they go out ?

Mrs Gurrey, They never staid there.

Mr Jones, When did they come in again ?

Mrs Gurrey, Between 11 and 12.

Mr Baron Hatfell, What did they do when they came in ?

Mrs Gurrey, I was laying on some Sheets 2 pair of Stairs, when they came, and then there was three of them ; so they saw me a little after, and beg'd my excuse for bringing in another ; for they said 'twas

so late they could not get a Lodging any where else, and said, if I thought fit the Gentleman should lie with them, and I told them I lik'd it very well.

Mr Jones, What Firing had they ?

Mrs Gurrey, The Firing I laid on in the morning, and they sent for my Husband to fetch them some Wine.

Mr Jones, What did you hear them talk on ?

Mrs Gurrey, They discours'd with my Husband, and ask'd him if he knew Mrs Sarah Stout, and one of them said to Mr Marson, I think she was an old Sweetheart of yours ; ay saith he, but she turn'd me off, but a Friend of mine is even with her ; and Mr Rogers said he was in with her, and afterwards said her Business was done ; they had a Bundle that was wrapt in a pure white Cloth (like to an Apron) but I can't say it was an Apron, and there was a parcel hanging loose by it, and when he laid it down, he said, he would pass his VVord Mrs Sarah Stout's Courting days were over, and I said, I hop'd it was no hurt to the Gentlewoman, and then I looking upon Mr Marson, I saw him put his Peruke aside, and his Head reack'd, and he told them he was but just come from London that Night, which made him disappointed of a Lodging.

Mr Jones, VVhat did you hear them say about any mony ?

Mrs Gurrey, I ask'd them how they would have their Bed warm'd, and Mr Marson answer'd very hot, and with that I went down to send my Daughter up, and she could not go presently, I told her then she must go as soon as she could.

Mr Baron Hatfell, Pray don't tell us what pass'd between you and your Daughter, what do you know of these Gentlemen ?

Mrs Gurrey, I went to the next Room to see if every thing was as it should be, I hearkned, and they had some discourse about mony, and I heard some body (I don't know who it should be, except it were Mr Stevens) answer, and say, the Use-money was paid to Night, but what money they meant I can't tell.

Mr Jones, VVhat did you find when they were gone ?

Mrs Gurrey, Sir, I found a Cord at the end of the Trunk.

Mr Jones, VVas it there in the morning, or before they came ?

Mrs Gurrey, No it could not, for I swept my Room and wip'd down the dust.

Mr Jones, VVas the Cord white ?

Mrs Gurrey, No, it was more dirty than it is now, for my Husband and I have worn it in our Pockets

Mr Cowper, Pray who brought the Cord down from above Stairs ?

Mrs Gurrey, my Daughter that liv'd with me, and she laid it upon the Shelf.

Mr Cowper, Did not you hear there was a Coroners Inquest sitting ?

Mrs Gurrey, The next day at night I did hear of it.

Mr Cowper, VVhy didn't you go to the Coroners Inquest, and give an account of it there ?

Mrs Gurrey, I told my Husband of it, and I ask'd my Husband if he did not hear what they said concerning Mrs Sarah Stout, and he answered yes, they ought to be taken up for the VVords they said last Night ; why, saith I, don't you take notice of, I think you ought to take them up ; but he went out of Doors, and I saw no more of him till the Afternoon ; when I heard the VVords I thought some body had stole her away and got to Bed to her.

Mr Cowper, Pray if your Husband heard these VVords, why didn't he go to the Coroners Inquest ?

Mrs Gurrey, I did speak to him to have them taken up.

Mr Cowper, VVhy did not you do it ?

Mrs Gurrey, He said he'd not do it, he did not know but it might cost him his life.

Mr Jones, How came you after this to discover it ?

Mrs Gurrey, Because I was so troubled in mind I could not rest Night nor Day, and I told him, if he'd not tell of it, I'd tell of it my self, for I was not able to live.

(Then Elizabeth Gurrey was Sworn)

Mr Jones, Pray do you know Mr Rogers, Mr Stevens, and Mr Marson.

E. Gurrey, I know Mr Marson, and these are the other Gentlemen I reckon.

Mr Jones, VVat Discourse did you hear from them ?

E. Gurrey, Mr Marson ask'd the other Gentlemen how much mony they had spent, the other answer'd, What's that to him, you have had 40 or 50 Pounds to your share ? Then the other ask'd him, Whether the Business was done ? and he answer'd, he believ'd it was, but if it was not done, it would be done to Night ; then, my Lord, he pull'd out a handful of mony out of his pocket, and swore he would spend it all for joy the Business was done.

Mr Jones, Was Mr Cowper's Name mentioned ?

E. Gurrey, I heard them mention Mr Cowper's Name, but not Mrs Sarah Stout's.

Mr Jones, What condition was the Gentleman's Shoes in ?

E. Gurrey, I think it was Mr Marson, his Shoes were very wet and dirty, one of them was very hot, and he wip'd his Head with his Handkerchief.

Mr Jones, Now, my Lord, we have done as to our Evidence : Mr Marson pretended he was just then alighted and come from London, and was in a great heat, and his Shoes were wet ; I wonder what Mr Marson had been doing, for when he was examined, he said he came to Town about Eight of the Clock, and went to the Glove and Dolphin Inn, and staid there while he came to his Lodging ; now 'tis a wonderful thing that he should come wet-shod from a Tavern, where he had been sitting 4 or 5 hours together

Then the Examination of Mr John Marson was read.

Mr Jones, All that I observe from it, is this ; that he had been 5 hours in Town, and when he came to his Lodging he came in wet and hot, and said he was just come from London.

Mr Marson, I had rid 40 miles that day, and could not be soon cold.

Mr Baron Hatfell, They have done now for the King ; Come Mr Cowper, What do you say to it ?

Mr Jones, If your Lordship please we'll call one Witness more.

(Mary Richardson)

Mr Jones, Do you know Mr Marson, or any of these Gentlemen ?

Mrs Richardson, They came on Tuesday Night to the Bell at Hoddesdon, and lay there, and one of the Gentlemen, when I was warming the Sheets, ask'd me if I knew Mrs Sarah Stout ; and I said yes ; he ask'd

ask'd me if I knew which way she came to her end, and I told him I could not tell.

Mr Jones, Is that all, what did they say more?

Mrs Richardson, They did desire and wish it might be found out how it came about; and one Gentleman took no notice of her at all; they had a little Bundle, but what was in it I can't tell, but there I see it bound up in some colour'd Stuff or other, but what it was I can't tell.

Mr Jones, Is that all you can say?

Mrs Richardson, Yes, that's all.

Mr Jones, Then we have done.

Mr Baron Hutsell, Come Mr Cowper, What do you say to it?

Mr Cowper, Now they have done on the part of the King, my Lord, and you Gentlemen of the Jury, I must beg your patience for my Defence. I confess it was an unfortunate Accident for me (as Mr Jones calls it) that I hapned to be the last Person (for ought appears) in the Company of a melancholy Woman. The Discourse occasioned by this Accident had been a sufficient Misfortune to me without any thing else to aggravate it; but I did not in the least imagin that so little, so trivial an Evidence as here is, could possibly have affected me to so great a degree, as to bring me to this Place to answer for the worst Fact that the worst of Men can be guilty of.

My Lord, your Lordship did just now observe, that I have appear'd at the Bar for my Clients, but I must say too, that I never appear'd for my self under this or the like Circumstances, as a Criminal for any Offence whatsoever.

Mr Jones very well said, when he spoke on the part of the King, that if this Gentlewoman was murthered, the Crime was Villanous, Base, Barbarous and Cruel; and for my part I think so too, the Crime would be so great, that it could never sufficiently be Condemned: But at the same time I may aver, that to suppose a Murther without good Grounds for it, and afterwards to charge innocent Men with it knowingly and maliciously, is to a Trifle as Base and Barbarous as the Murther it self could be. My Lord, I speak for my own part, I know not at what Price other Men may value their Lives, but I had much rather my self was murthered than my Reputation; which yet, I am sensible hath suffer'd greatly hitherto by the malice and artifice of some men, who have gone pretty far in making this Fact, as Barbarous as it is, to be Credited of me. And therefore I must beg your Lordship's, and the Jury's Patience, while I not only defend my Life, but justifie my self also from these things that have unjustly aspersed me, by the Conspiracy and Artifice of my Accusers.

My Lord, in all the Evidence that hath been given, I must observe there is no positive Evidence, vvith Submission, to induce the Jury, or any one to believe the General, that this Gentlewoman vvvas murthered; but they go upon Suppositions and Inferences, vvwhich are contradicted by other Circumstances, in the very Evidence of the Prosecutor, that make full as strong to prove she vvvas not murthered, as that she vvvas; so that as it stands, it can amount only to a bare Supposition, that she vvvas murther'd by any body.

Then as to the Evidence that particularly relates to my self, or the Gentlemen vvwho stand vvwith me at the Bar; that they, or I vvvere concern'd in it (if she vvvas murther'd) there is not one Syllable of Proof; at most it amounts but to make us suspect of a Murther, not proved, but only suspected; this I observe upon the Evidence, as it novv stands vvwithout Ansver, as it has been given on the King's Part, and hovv far in the Case of Life, Men shall be affected vvwith Evidence of this Nature, vvwhich neither proves the Murther in General, nor that they did it in particular, though no Defence vvvas made, or any further Ansver given, I must submit to your Lordship's, and the Jury's Judgment.

But my Lord, I do not doubt but I shall be able to vvwipe avway, even that remorse Suspicion by my Defence; they have been long in their Evidence for the King, and therefore I must beg your Patience vvwhile I give a particular Ansver to every part of it, in as good a method as I am able, and I vvwill vvaste as little time as may consist vvwith the justifying my Reputation (for vvwhich I knovv your Lordship vvwill have as tender a regard, to see it doth not suffer unjustly) as for my Life it self.

And I promise your Lordship I shall trouble you vvwith no Evidence vvwhich is not exprefs and plain, no Inuendoes or Suspicions; but I shall prove fully and clearly, in the first place, that there vvvas no Ground at all in this Caie to suppose she vvvas murthered by any one but her self.

The first Fact that they insisted upon to infer a Murther from it, vvvas, that the Body vvvas found floating; novv, my Lord, that Fact I am able by the Evidence I have, as vvwell as from that of the Prosecutor, to deny; for the Fact vvvas directly othervvwise, that is, she vvvas not found floating.

And whereas the Prosecutor's Witnesses, who have been produced to this Point, are obscure and poor Men, and your Lordship observes have been taught to say generally that she floated, which, when they are required to explain, and describe how she lay, they contradict themselves in, by shewing she lay sideways between the Stakes, and almost all under Water: Now I shall give your Lordship, and the Jury a full and particular Account and Description from the Parish Officers, Men employ'd by the Coroner to take the Body out of the Water, of the very Manner and Posture in which it was first found; which they are much better able to do, than the Prosecutor's Witnesses, having seen her before all, or most of those People: and these Officers clearly agree that her Body was under Water, when found, except some small appearance of her Petticoats, near, or on the surface of the Water, which may be very easily accounted for; because the Stakes the Witnesses mention, and which are driven to the Ground cross the River to prevent the Weeds and Trumpery from running into the Mill, stand, as the Witnesses have already said, about a Foot distance from one another, and are set with their Feet from the Mill, and their Heads inclining towards the Mill with the Stream: Now, my Lord every one knows, that though a drowned Body will at first sink, yet it is buoyant, and does not go down right, and rest in one place like Lead; for a humane Body is seldom or never in a Stream found to lie where it was drowned; a Body drowned at Chelsea, has been often found by Fishermen at London, and that before it came to float above Water. Now, if a Body is so Bouyant, as that it is driven down by the impellant force of the Current (though it do not float above Water) it seems a Consequence that when it comes to be stopp'd and resisted by the Stakes, which lie with their Heads downwards, inclining with the Stream, the Stream bearing the Body against

the Stakes, must needs raise it upwards to find another Passage, if possible, when the Ordinary and Natural is obstructed. I have seen I remember, that where Weeds have been driven down a River, and have been rooted along at the bottom, when they have come down to a Board, or Stakes of a Wyer, or Turnpike, they have been by the force of the Water raised up against those Boards, or Stakes, and forc'd over them, though without such Obstruction they had undoubtedly continued to rool along under the Water. I don't know of any other Symptom they pretend too, of her not being drowned, from any thing observed of her in the Water. Then as to the flatness of her Belly, when she was put into her Coffin, I shall shew it is a common and natural Accident, sometimes drowned Bodies are swelled more, sometimes less, sometimes not at all; I think it hardly deserves a Physician to prove that a Body may be drowned with very little Water, that a Man may be drowned by Strangling, or Suffocation caused by a little Water in the Lungs, without any great quantity of Water received in the Body, is a certain and establish'd Truth; for I am told that when Respiration ceases, the Party dies, and can receive no more Water after that; so that nothing is to be inferred from a Body's having more or less Water found in it, especially, if your Lordship will give me leave to observe this distinction, where a Body is voluntarily drowned, and where it is drowned by Accident; for People that fall in by Accident do struggle and strive as long as they can, every time they rise they drink some Water in the Stomach to prevent its passing into the Lungs, and are drowned no sooner than needs must; but Persons that voluntarily drown themselves, to be sure desperately plunge into the Water to dispatch a miserable Life, as soon as they can; and so that little quantity in the Lungs, which causes Death, may be the sooner taken in; after which, no more is received: And I hope by Physicians it will appear there is good Ground for this Difference.

The next is the Evidence that the Chyrurgeons have given on the other part, relating to the taking this Gentlewoman out of her Grave, after she had been buried six Weeks, whether this ought to have been given in Evidence for the Reasons I hinted at in a Criminal Case, I submit to your Lordship. But as it is, I have no reason to apprehend it, being able to make appear, that the Gentlemen who spoke to this Point have delivered themselves in that manner, either out of extreme Malice, or a most profound Ignorance; this will be so very plain upon my Evidence, that I must take the liberty to impute one, or both of those Causes to the Gentlemen that have argued from their Observations upon that Matter.

And now, if your Lordship will but please to consider the Circumstances under which they would accuse me of this horrid Action, I don't think they will pretend to say, that in the whole Course of my Life, I have been guilty of any mean or indirect Action, and I will put it upon the worst Enemy I have in the World to say it. Now, for a Man in the Condition I was in, of some Fortune in Possession, related to a better, in a good Employment, thriving in my Profession, living within my Income, never in Debt, (I may truly say not five Pounds at any one time these eight Years past) having no possibility of making any Advantage by her Death, void of all Malice; and as appears by her own Evidence in perfect Amity and Friendship with this Gentlewoman, to be guilty of the murdering her, to begin at the top of all Baseness and Wickedness, certainly is incredible.

My Lord, in this Prosecution my Enemies seeing the necessity of Assigning some Cause, have been so Malicious to suggest before (though not now, when I have this Opportunity of Vindicating my self publicly) that I have been concerned in the Receipt of Money's for this Gentlewoman, had her Securities by me, and sometimes that I had been her Guardian, or her Trustee, and I know not what: I now see the Contrivers and Promoters of that Scandal, and they know it to be Base, False, and Malicious; I never was concerned in Interest with her, directly, or indirectly, and so I told them when I was before my Lord Chief Justice; 'tis true, it was then just suggested by the Prosecutors, I then denied it, and I deny it still----- I thank God I have not been used, nor have I needed to deny the Truth.

My Lord, you find the Prosecutors have nothing to say to me upon this Head, after all the Slanders and Stories they have Published against me, of my having Money in my Hands which belonged to the Deceased. But though they do not stir it, I will, and give your Lordship a full Account of all that ever was in that Matter: When I lodg'd at *Hertford*, some time since, she desired me to recommend to her a Security for 200 *l.* if it came in my way, my Lord, when I came to Town, I understood that one Mrs. *Puller*, a Client of mine, had a Mortgage formerly made to her by one Mr. *Loftus* of *Lambeth* in *Survey*, for the like Summ, and that she was willing to have in her Money; I wrote to this Gentlewoman, the Deceased, to acquaint her of the Security, she thereupon did send up 200 *l.* and some odd Pounds for Interest (the Account of which I produced to my Lord Chief Justice) this Money was sent to me by Mr. *Cramfield*, as I have been informed, and by him given to Mr. *Toller's* Clerk, and by him brought publicly to me; my Lord, this Mortgage I immediately Transferr'd by Assignment, Indors'd on the back of it, and Mrs. *Habberfield*, a Trustee for Mrs. *Puller*, Signed and Scaled it, and that very 200 *l.* and Interest due was at one and the same time paid to Mrs. *Puller*, and by her the Principal was paid to her Daughter, in part of her Portion. All this was Transacted the beginning of *December* last, and she was not drowned till the 13th of *March* following: And my Lord, these People that are now the Prosecutors, did own before my Lord Chief Justice, that they had found this Mortgage amongst the Deceased's Writings in her Cabinet at the time of her Death. Now, my Lord, I say, that saving this one Service I did her, as I said in *December* last, I never was otherwise concerned with her in the receiving, or disposing of any of her Money; nor had I ever any of her Securities for Money in my keeping: and I desire any Adversary I have to shew the contrary.

My Lord, as there appears no Malice, no Interest, so they have prov'd for me that there was no Concealment of Shame, to induce me to commit so Barbarous an Action; otherwise, perhaps now they find they can assign no other Cause, they would content themselves to give that reason, and sling that Scandal at me: And though I take it by the Experience I have had of them, they did not design to do me any Favour, yet I thank 'em, in endeavouring to vindicate her Honour, they have secured my Reputation against that Calumny; and though I am satisfied, as I said, they did not intend me Kindness, yet I thank God they have given me a just Opportunity to take advantage of their Cunning, for the clearing my Innocence in that Aarticular.

Then

Then, my Lord, not to rest it here, but to satisfy the Jury and the World how this Gentlewoman came to destroy her self, I shall give the clearest Evidence that was ever given in any Court, that she murdered her self; when I enter upon this Proof, I must of necessity trespass upon the Character of this Gentlewoman that is dead, I confess this is a tender Point, 'tis a thing I would willingly be excus'd from, and 'tis not without a great deal of Reluctancy and Compulsion forc'd from me: That she was melancholly the Prosecutors themselves have prov'd; but I must of necessity show you the Occasion and Reasons of it, and the Witnesses will tell your Lordship what desperate Resolutions she had been under formerly, and that will lead me to near the time of her Death; to show why, and upon what Accidents she made away her self. I will not innumerate Particulars, by way of opening; only I must tell your Lordship, that some Letters of hers must of necessity be produced, which truly as I said, I should not meddle with, if I had not these innocent Gentlemen here to defend, as well as my self; perhaps it may be said, that in Honour I ought to conceal the Weakness of this Gentlewoman, but then in Honour and Justice to these Gentlemen that are falsely accused with me I cannot do it; I hope this one reason will excuse me to the World, for I have no other that could have oblig'd me to bring these Letters upon the Stage; I solemnly protest, if I stood here singly in the Case of my own Life, upon the Evidence given against me, I take it to be so inconsiderable, I would not do it; but I must do it to show that these Gentlemen also are innocent, and to preserve them, because I am satisfied in my own mind they are so. My Lord, when I have done that, I shall show your Lordship in the next place, that it is utterly impossible I could be concern'd in this Fact; if had had all the motives and provocations in the World to have done it: I shall show your Lordship in point of time it could not be.

The Maid *Sarah Walker*, who is the single Witness take it, that says any thing in the least relating to me, said but now, the Clock had struck 11 before she carried up the Coals, and about a quarter of an hour after, while she was warming the Bed above stairs, she heard the Door clap, and sometime after that she came down and found that I and her Mistress were gone, Now in point of time I shall prove it utterly impossible I could be guilty of the Fact I am accused of, being seen to come into the *Glove Inn* as the Town Clock struck eleven, and staying there more than a quarter of an hour, was after several things done at my Lodging, in Bed before twelve a Clock, and went no more out that Night as I shall prove. As for that little circumstance of sending for my Horse, which they have made use of all along to back this prosecution; their very telling me of that matter, shews how they are put to their shifts to justify their accusing me; I say in prudence I ought to have done what I did: I sent for him on the *Tuesday*, but as their Witness saith, I told him, at the time I bid him fetch my Horse, not to use then, nor till by the course of the Circuit I was to go into *Essex* with the Judges the next Morning; and till then the Prosecutors Witness, who is the Ostler of the *Glove Inn*, was ordered to set him up there to litter him down, and to take care of him and feed him, and that he should be ready for me to go to *Chelmsford* on the morrow, whither I went with the other Council the next Morning being *Wednesday*; and this my Lord is the whole of that matter.

My Lord, this Business slept near two Months after the Coroners Inquest before I heard of it, or imagined my self to be concerned in it, and was never stirr'd till two Parties differing on all other occasions had laid their Heads together; I beg leave to let your Lordship a little into that matter, to show you how this Prosecution came to be managed, with so much noise and violence as it hath been. I can make it appear, that one of the greatest of the Quakers, Mr. *Mead* by name, has very much, and indirectly too, concerned himself in this matter; it seems they fancy the Reputation of their Sect is concern'd in it, for they think it a wonderful thing, nay absolutely impossible (however other People may be lyable to such resolutions) that one who was by her Education intitled to the Light within her, should run headlong into the Water, as if she had been posselt with the Devil; of this they think their Sex is to be clear'd, though by spilling the Blood of Four Innocent Men. The other sort of People that concur with the Quakers in this Prosecution, I shall mention now I come to observe what the Witnesses are that have been produced against me; some of them I have nothing to object to, but that they are extreme Indigent and Poor, and have been helped by the Prosecutor, those that are so say nothing as to me; others who live in this Town, and give their Opinions of the manner of her Death, are posselt with much prejudice against me, upon Feuds that have risen at the Elections of my Father and Brother in this Town, and these with the Quakers have wholly dress'd up this matter for several ends the Quakers to maintain the Reputation of their Sect, and the others to destroy, or break at least, the Interest of my Family in this Place: But however effectual these designs may have been, to have made a great noise in the World out of nothing; I am satisfied now, that I am in a Court of Justice, where no Persons Reputation, much less his Life, will be sacrific'd to the Policy or Malice of a Party without Proof; and therefore I have taken up so much of your time, to set the true rise of this Prosecution before you in a clear Light.

My Lord, as to my coming to this Town on *Monday*, it was the first day of the Assizes, and that was the reason that brought me hither; before I came out of Town, I confess, I had a design of taking a Lodging at this Gentlewoman's House, having been invited by Letter so to do; and the reason why I did not was this; my Brother when he went the Circuit always favour'd me with the offer of a part of his Lodging, which out of good Husbandry I always accepted: The last Circuit was in Parliament time, and my Brother being in the Money Chair could not attend the Circuit as he us'd to do, he had very good Lodgings, I think one of the best in this Town, where I us'd to be with him, these were always kept for him, unless notice was given to the contrary; the *Friday* before I came down to the Assizes, I hapned to be in company with my Brother and another Gentleman, and then I show'd them the Letter, by which I was earnestly invited down to lie at the House of this Gentlewoman, during the Assizes, (it is dated the 9th of *March* last) and designing to comply with the Invitation; I thereupon desired my Brother to Write to Mr. *Barfoot* our Landlord, and get him, if he could, to dispose of the Lodgings, for said I, if he keeps them they must be paid for, and then I cannot well avoid lying there; my Brother did say he would Write, if he could think on't; and thus if Mr. *Barfoot* dispos'd of the Lodgings, I

own I intended to lie at the Deceaseds House, but if not, I looked on my self as obliged to lie at Mr. Barfoots. Accordingly I shall prove, as soon as ever I came to this Town in the Morning of the first day of the Assizes, I went directly to Mr. Barfoots, (the Maid and all agree in this) and the reason was, I had not seen my Brother after he said he would Write before I went out of London; and therefore it was proper for me to go first to Mr. Barfoots, to know whether my Brother had Wrote to him, and whether he had disposed of the Lodgings or not; as soon as I came to Mr. Barfoots's, there was one Mr. Taylor of this Town came to me, and I in his hearing ask'd Mr. Barfoot, his Wife, and Maid-servant one after another, if they had received a Letter from my Brother to unbespeak the Lodgings; they told me no, that the Room was kept for us, and I think that they had made a Fire, and that the Sheets were airing; I was a little concerned he had not writ, but being satisfied that no Letter had been received, I said immediately, as I shall prove by several Witnesses, if it be so I must stay with you, I will take up my Lodging here; thereupon I lighted, and sent for my Bag from the Coffee-house, and I lodg'd all my things at Barfoots, and thus I took up my Lodging there as usual: I had no sooner done this, but Sarah Walker came to me from her Mistress to invite me to Dinner, and accordingly I went and dined there, and when I went away it may be true that, being asked, I said I would come again at Night, but that I did say I would lie there, I do positively deny, and knowing I could not lie there, 'tis unlikely I should say so: my Lord, at Night I did come again and paid her some money, which I received from Mr. Loftus, who is the Mortgager for Interest of the 200 l. I before mentioned (it was Six Pounds odd money in Guineas and half Guineas) I writ a Receipt, but she declined the Signing of it, pressing me to stay there that Night, which I refused as engaged to lie at Mr. Barfoots and took my leave of her; and that very Money which I paid her was found in her Pocket, as I have heard after she was drowned.

Now my Lord, the reason that I went to her House at Night, was first, as I said, to pay her the Interest Money; in the next place it was but fitting, when I found my self under a necessity of disappointing her, and lying at Barfoots to go to excuse my not lying there; which I had not an opportunity at Dinner time to do. My Lord, I open my Defence shortly, referring the particulars to the Witnesses themselves, in calling those who will fully refute the Suppositions and Inferences made by the Prosecutors, of whom, first my Lord, I shall begin with to shew there is no Evidence of any Murder at all committed; and this I say again ought to be indisputably made manifest and prov'd before any Man can be so much as suspected for it.

Mr. Bar. Hatsell, Do not flourish too much, Mr. Cowper, if you have opened all your Evidence, call your Witnesses, and when they have ended, then make your Observations. Mr. Cowper. Then, my Lord I will take up no more of your Time in opening this Matter.

Call Robert Dew (who appear'd)

When Mrs. Sarah Stout drowned her self, was not you a Parish Officer?

R. Dew. I was, I was next House to the Coach and Horses, and about six of the Clock came a little Boy, (Thomas Parker's Boy) and said there was a Woman fallen into the River; I consider'd it was not my business, but the Coroners, and I sent the Boy to the Coroner, to acquaint him with it, and the Coroner sent word by the Boy, and desired she might be taken out, so I went to the River, and saw her taken out; she lay in the (River, as near as I could guess) half a Foot in the Water, she was cover'd with Water, she had a strip'd Petticoat on, but nothing could be seen of it above Water; I heav'd her up, and several Sticks were underneath her, and Flags, and when they took her out, she froth'd at the Nose, and Mouth.

Mr. Cowper. How was she driven between the Stakes?

R. Dew. She lay on the right side, her Head leaning rather downwards, and as they pull'd her up, I cry'd, hold, hold, you hurt her Arm, and so they kneel'd down and took her Arm from the Stakes.

Mr. Cowper, Did you see any Spots upon her Arm?

R. Dew. Yes, Sir.

Mr. Cowper, What sort of Spot was it?

R. Dew. It was reddish, I believe the Stakes did it; for her Arm hit upon the Stake where she lay.

Mr. Cowper, Pray how do these Stakes stand about the Bridge of the Mill?

R. Dew, I suppose they stand about a Foot asunder, they stand slanting, leaning down the Stream a little.

Mr. Cowper, Could you discern her Feet?

R. Dew, No, nothing like it, nor the strip'd Petticoat she had on

Mr. Cowper, Might not her Knees and Legs be upon the Ground, for what you could see?

R. Dew, Truly, if I was put upon my Oath, whether they were so, or not, I durst not Swear it; sometimes the Water there is four Feet, sometimes three and a half, I believe her Feet were very near the bottom.

Mr. Cowper, Are not the Stakes nail'd with their Head against the Bridge? R. Dew. They are nail'd to the side of the Bridge. Mr. Cowper, Pray describe the manner in which they took her up.

R. Dew, They stoop'd down and took her up. Mr. Cowper, Did they take her up at once?

R. Dew, They had two heavings, or more? Mr. Cowper. What was the reason they did not take her up at once? R. Dew, Because I cry'd out, they hurt her Arm. Mr. Cowper, Was she not within the Stakes?

R. Dew, No, this Shoulder kept her out. Mr. Cowper, When you complain'd they hurt her Arm, what Answer did they make you? R. Dew. They stoop'd down and took her Arm out from between the Stakes, they could not have got her out else.

Mr. Cowper, After she was taken out, did you observe any Froth or Foam come from her Mouth, or Noise? R. Dew, There was a white Froth came from her, and as they wip'd it away, it was on again presently. Mr. Cowper, What was the appearance of her Face and upper Parts at that time?

R. Dew, She was so much disfigured, I believe, that scarce any of her Neighbours knew her, the Slime of the Water being upon her. Mr. Cowper, Did you see her Maid Sarah Walker at that time?

R. Dew, No.

Mr. Ba. Hussell, Mr. Cowper, Do you intend to spend so much time with every Witness, I don't see to what purpose many of these Questions are ask'd? Mr. Cowper, I have done with him, call Young.

Mr. B. Hatsell, I would not have you straiten your self, but only ask those Questions that are Pertinent.

Mr. Cowper, Pray give an account of what you know of this Matter. Young. On Tuesday morning between 5 and 6 of the Clock last Assizes? Mr. Cowper, What Officer was you?

Young I was Constable,

Mr. Cowper, Was you employ'd by the Coroner?

Young

Young. Not by him in Person. Between five and six a Clock, some of the Men that came into my Yard to work, told me a Woman was drowned at the Mill, I staid a little, and went down to see, and when I came there, I saw a Woman, as they had told me, and I saw part of her Coat lie on the Top of the Water to be seen, and I look'd strictly and nicely within the Bridge, and saw the Face of a Woman, and her left Arm was on the out-side the Stakes, which I believe kept her from going thro'; so I look'd upon her very wishfully, and was going back again, and as I came back, I met with *R. Dew*, and two of my Neighbours, and they ask'd me to go back with them, and said they were going to take her up, and being Constable, I told them, I thought it was not proper to do it, and they said they had Orders for it; so I being Constable went back with them, and when I came there, I found her in the same Posture as before, we view'd her very wishfully; her Coat that was driven near the Stakes was seen, but none of her other Coats, or her Legs, and after we had look'd a little while upon her, we spake to *Deu* and *Ulse*, to take her up, and one of them took hold of her Coat till he brought her above Water; and as her Arm drew up, I saw a black place, and she laid sideway, that he could not take her up till they had let her down again, and so they twisted her out sideway; for the Stakes were so near together, that she could not lie upon her Belly, nor upon her Back, and when they had taken her up, they laid her down upon a green place, and after she was laid down, a great quantity of Froth (like the Froth of new Beer) work'd out of her Mouths.

Mr Bar. Hatfell, How much do you call a great quantity?

Young, I run up in Bladders, and run down on the sides of her Face, and so rose again; and seeing her look like a little Woman, we desir'd one *Ulse* to search her Pockets, to see if there were any Letters, that we might know who she was, so the Woman did, and I believe there was twenty or more of us, that knew her very well when she was alive, and not one of us knew her then, and the Woman search'd her Pockets, and took out six Guinea's ten Shillings and three half-penny, and some other Things; and after that, I desir'd some of my Neighbours to go with me and tell the Mony; for when it came to be known who she was, I knew we must give an Account on't, and I laid it upon a Block and told it, and they tied it up in an Handkerchief, and I said I would keep the Mony, and they should Seal it up, to prevent any Question about it; and during all this while of Discomode, and Sealing up the Mony, the Froth still work'd out of her Mouth.

Mr Cowper, Have you measur'd the depth of the Water; what depth is it there?

Young, I measur'd the Water this Morning, and it was so high, that it run over the Floodgate, and the height of it was about four Foot two Inches, but sometimes 'tis Pen'd up to a greater height than 'tis to Day.

Mr Cowper, Was it higher to Day, than when the Body was found?

Young, To the best of my remembrance, 'twas as high to Day, as it was then.

Mr Cowper, Was any part of the Body above Water? *Young,* No, nor nothing like the Body could be seen.

Mr Cowper, Could you see where her Legs lay? *Young,* No, nor nothing but her upper Coats which were driven against the Stakes.

Mr Cowper, Pray give an account how long she lay there, and when she was convey'd away. *Young,* I staid a quarter of an Hour, and then I went and Seal'd up the Mony at my own House, so that I did not see her remov'd.

Mr Jones, Was any Body there besides your self at this time? *Young,* Yes, Twenty People at the least.

Mr Jones, Now here is ten of them that have sworn that the Body was above the surface of the Water.

Mr Bar. Hatfell, No, her Cloaths they say were, but the Body was something under the water.

Mr Cowper, Now I will trouble your Lordship no more with that Fact, but I will give you an account of the Coroners Inquest, how diligent they were in their Proceedings, and produce a Copy of the Inquisition it self, that she was found to have drowned herself.

Mr Bar. Hatfell, *Mr Cowper,* That is no Evidence, if it be produced in order to contradict what these Witnesses have said, that have been examined for the King; but if you will prove, that they have sworn otherwise before the Coroner, than they now do, then you say something, otherwise the Coroners Inquest signifies nothing as to the present question.

Mr Cowper, Call *Thomas Wall*, I am loth to be troublesome, but if you please to favour me, I desire to know of them, whether they do admit there was an Inquisition, and that she was found *Non Compos Mentis*, and did kill herself.

Mr Jones, We do admit it.

Jurymen, We desire it may be read.

Mr Bar. Hatfell, Why, won't you believe what they agree to on both sides.

Jurymen. If they do agree so, I am satisfied.

Mr Cowper, *Thomas Wall*, Pray do you give an account of what you know of *Mrs Stout's* being taken up?

Wall, My Lord, I was one of the Jury, that view'd her at the Place where she was laid, when she was taken up, and there was no marks upon her, only a little mark about her Ear, and something near her Collar Bone, that was all I see upon her.

Mr Cowper, Do you know any thing of any Surgeons being imploy'd to view those marks?

Wall, My Lord, we had several Persons that came before us that we examined, we had a dispute concerning these marks what might effect them; and we desired *Mr Dimsdale*, and *Mr Camlin* to see them, that we might be the better satisfied, and they both went down and view'd the Body after it was brought down to *Mrs Stouts*, and they came back both of them, and *Mr John Dimsdale* told us, that these marks were no more than were usual in such Cases, and it was only the Stagnation of Blood.

Mr Cowper, Was it the old man, or the young man?

Wall, It was the young man.

Mr Cowper, Usual he did say?

Wall, I can tell the very Words, I have them writ down.

Mr Cowper, Pray do so, for he was denied it here.

Wall, (Looks on his Paper) here 'tis. *Mr Dimsdale* and *Mr Camlin* came to us, and *Mr Dimsdale* spake and said these marks are usual, or might be usual, or if they were marks, it was no more than was usual in such Cases; and that it was the Stagnation of Blood.

Mr Cowper, Now you have your Notes in your Hand, pray what did *Sarah Walker* say to you, as to the time I went from *Mrs Stout's*?

Wall, *Sarah Walker* said it was about 11 a Clock when she took up Coals to warm the Bed, but she said she could not, nor did not know when *Mr Cowper* went out, for she warm'd the Bed, and *Mr Cowper* not coming up, she took up some more Coals, and tarried a little longer, and no body coming up, she went down, and found *Mr Cowper* was gone; and she look'd into the Parlour and her Mistress was gone.

Mr Bar. Hatfell, The Woman said the same thing.

Mr Cowper, 'Tis necessary in this particular as to the time.

Mr Bar. Hatfell, She told you the Clocks did differ. (Then *Mr Bowden* was called.)

Mr Cowper, Well, what do you know of the taking up of *Mrs Stout*?

Bowden. I went with the rest of the Neighbours to view her, and I did perceive it was *Mrs Sarah Stout's* Body, tho' some questioned it; I do believe I was the second Person that discover'd it was she; and, my Lord, I did see a great deal of froth that came out of her mouth and nostrils.

Mr. Cowper, Did you go about to wipe it away?

Bowden, No, but some other Person did, it come out in a great quantity.

Mr Jones, How much do you call a great quantity?

Bowden, Her mouth and nostrils were very full of it.

Mr Jones, Was not her mouth shut?

Bowden, I did not observe that.

Mr Cowper, How long had she lain there before you came?

Bowden, I believe I was there in half an hour, as soon as I heard the report of it I went down.

Mr Cowper, Call Mr Shute.

Mr Bar. Hatsell, Well, what can you say to this matter?

Shute, Sir, I was summoned upon the Jury, upon the Coroners Inquest, and I perceived when I was there, that the same stuff worked out of Mrs Stout's Nostrils, as worked out of the Childs.

Mr Bar. Hatsell, What Child is that you speak of, is it the Child that was drowned in the same place as Mrs Stout was?

Shute. Yes.

Mr Cowper, My Lord, I am very tender how I take up your Lordships time, and therefore I will not trouble you with any more witnesses upon this Head, but with your Lordships leave, I will proceed to call some Physicians of note and eminence, to confront the learning of the Gentlemen on the other side——Dr. Sloane, you were in Court when these Gentlemen delivered their Opinion concerning Mrs Stout's having no water in her, I desire you would give your Opinion in that matter.

Dr Sloane, I have not heard them very particularly or distinctly, because of the great Crowd, some of them I have; Cases of this kind are very uncommon, and none of them have fallen directly under my own Knowledge. As to my Opinion of drowning, it is plain, that if a great quantity of Water be swallowed by the Gullet into the Stomach, it will not suffocate nor drown the Person. Drunkards, who swallow freely a great deal of Liquor, and those who are forced by the Civil Law to drink a very great quantity of Water, which in giving the Question (as 'tis call'd) is poured into them by way of torture to make them confess Crimes, have no suffocation or drowning happen to them: But on the other hand, when any quantity comes into the Wind-pipe, so as it does hinder or intercept the Inspiration, or coming in of the Air, which is necessary for respiration or breathing, the Person is suffocated. Such a small quantity will do it sometimes in Prescriptions, when People have been very weak, or forced to take Med'cines, I have observed some Spoonfuls in that condition (if it went the wrong way) to have choaked or suffocated the Person. I take drowning in a great measure to be thus, and tho' it is very likely when one struggles he may (to save himself from being choak'd) swallow some quantity of Water, yet that is not the cause of his Death, but that which goes into the Wind-pipe and Lungs; whether a Person comes dead or alive into the Water, I believe some quantity will go into the Wind-pipe, and I believe without force after Death little will get into the Stomach, because for that it should, swallowing is necessary, which after Death cannot be done.

Mr Bar. Hatsell, Pray Dr I understand you say this, that in case a Person is drowned, that there may be but little water in the Stomach?

Dr Sloane, That it is accidental, my Lord.

Mr Bar. Hatsell, But what do you say to this, if there had been water in the Body, would it not have putrified the Parts after it had lain six Weeks?

Dr Sloane, My Lord, I am apt to think it would have putrified the Stomach less than the Lungs, because the Stomach is a part of the Body that is contrived by nature, partly to receive Liquids, but the contrivance of the Lungs is only fed by the receiving of Air, they being of a spongy nature, the water might sink more into them than the Stomach; but I believe it might putrify there too after some time. I am apt to think that when a Body is buried under Ground, according to the depth of the Grave, and difference of the weather and soil, the fermentation may be greater or lesser, and that according to the several kinds of meats or liquids in the Stomach, the putrefaction will likewise vary, so that it seems to me to be very uncertain.

Mr Bar. Hatsell, But when they are in a Coffin, how is it then?

Dr Sloane, No doubt there will be a fermentation more or less, according as the Air comes, more or less to the Body. Indeed it may be otherwise, where the Air is wholly shut out, which is supposed to be the way of Embalming, or preserving dead Bodies of late, without the use of any Spices, which is thought in a great measure to be brought about by the closeness of the Coffin, and hindring of the Air from coming into the Body.

Mr Cowper, Is it possible in your Judgment for any water to pass the Thorax?

Dr Sloane, I believe 'tis hardly possible that any should go from the Wind-pipe into the Cavity of the Thorax, without great violence and force, for there is a membrane that covers the outside of the Lungs, that will hinder the water from passing thro' it into any part without them.

Mr Cowper, Now do you think it possible to find water in a drowned Body after six Weeks time.

Dr Sloane, I am apt to think if there was any quantity in the Lungs, the sponginess of the part would suck up some part of it. As to the Stomach, I have not known it tried, but 'tis like if there was a great fermentation, a great deal of it would rise up in vapours or steams, and go off that way.

Mr Cowper, Dr Garth, I can't tell whether you were in Court when the Surgeons who are Witnesses for the King gave their evidence.

Dr Garth. Yes, I was.

Mr Cowper, Then I desire you, Sir, to give your Opinion as to those Particulars.

Dr Garth, I observed in this Trial the first Gentleman call'd for the King that spoke to this matter was Mr Coatsworth. He saith he was sent for to open her, upon an asperson of her being said to be with Child. I agree with him in what he speaks to that Point, but must differ with him where he infers she was murder'd because he found no great quantity of water in her, as also her Head extremely mortify'd, but not her Lungs (Lungs and Bowels I think were us'd promiscuously.) Now, my Lord, as to the matter of putrefaction, I think 'tis not much material whether there be any water or no in the Cavities of the Body, if water would hasten putrefaction, it would do it as well in the Lungs as otherwise; there is always some water in the lymphaducts there, the breaking of which may be one occasion of Catarrhs. As to what relates to the putrefaction of the Head, it may happen from a stoppage of the reflux Blood, which is staid there in a great quantity, thro' the suffocation in the water, or from the neatness of the Brain, which is observ'd often to mortify first.

The next was Mr Dimisdale (I would speak to them all in order if my memory would permit) I think he was of the same Opinion with Mr Coatsworth; he laid the stress of his suspicion upon the mortification of the Head, which I think is not at all material, no more than what they infer from her floating: It being impossible the Body should have floated, unless it had rested, or had been entangled amongst the Stakes, because all dead Bodies, (I believe) fall to the bottom, unless they be prevented by some extraordinary tumour. My Lord, we have not only Philosophy, but Experiments for this. The Witnesses all agree she was found upon her side, which to suppose her to float in this Posture, is as hard to be conceiv'd, as to imagine a Shilling should fall down and rest upon its edge, rather than its broad side; or that a Deal Board should rather float edgeways than otherwise; therefore 'tis plain she was entangled, or else the Posture had been otherwise.

As to the quantity of Water, I do not think it necessary it should be very great. I must own the Water will force it self into all Cavities where there is no resistance. I believe when she threw herself in, she might not struggle to save herself, and by consequence not sup up much Water. Now there's no direct Passage into the

Stomach

Stomach but by the Gullet, which is contracted or purs'd up by a Muscle in nature of a Sphincter; for if this Passage was always open, like that of the Wind-pipe, the weight of the Air, would force it self into the Stomach, and we should be sensible of the greatest Inconveniencies. I doubt not, but that some Water fell into her Lungs, because the weight of it, wou'd force it self down, but if we consider the Wind-pipe with its ramifications, as one *Cylinder*, the calculation of its contents will not amount to above 23 or 24 solid Inches of Water, which is not a Pint, and which might imperceptibly work and fall out. I remember I offer'd a Wager at *Garraways Coffee-House*, to a Gentleman here in Court.

Mr Bar. *Hatfell*, Pray Doctor tell us your Opinion as to what the Seaman said, and also to what Dr *Sloan* said, whether Water in the Body will putrifie it.

Dr *Garth*, I say not, for in some places they keep Flesh Meat from corrupting, by preserving it in Water, and 'tis well known, 'twill putrifie less so, than when expos'd to Air.

Mr Bar. *Hatfell*, But what do you say as to the sinking of dead Bodies in Water?

Dr *Garth*, If a strangled Body be thrown into the Water, the Lungs being filled with Air, and a Cord left about the Neck, 'tis probable it may float, because of the included Air, as a Bladder wou'd, but here is neither Cord, nor any mark of it, nor nothing but a common Stagnation.

Mr Bar. *Hatfell*, But you don't observe my Question, the Seaman said, that those that die at Sea, and are thrown over-board if you don't tye a weight to them, they will not sink, What say you to that?

Dr *Garth*, My Lord, no doubt in this they're mistaken. The Seamen are a superstitious People, they fancy that whistling at Sea will occasion a Tempest; I must confess, I never saw any Body thrown over-board, but I have tried some Experiments on other dead Animals, and they will certainly sink, we have try'd this since we came hither. Now, my Lord, I think we have Reason to suspect the Seaman's Evidence, for he saith, that Threecore Pound of Iron is allow'd to sink the dead Bodies, whereas six or seven Pounds wou'd do as well. I cannot think the Commissioners of the Navy guilty of so ill Husbandry, but the design of tying Weights to their dead Bodies, is to prevent their floating at all, which otherwise wou'd happen in some few Days, therefore what I say is this, that if these Gentlemen had found a Cord, or the print of it, about the Neck of this unfortunate Gentlewoman, or any Wound that had occasion'd her Death, they might then have said something.

Mr *Cowper*, Do you apprehend that any quantity of Water, can enter into the Cavity of the Thorax?

Dr *Garth*, 'Tis impossible there shou'd, till the Lungs be quite rotten, there is no way but by the Lungs, which are lined with so strong a Membrane, that we cannot force Breath with our Blow-pipes thro' it, and there's a great Providence in such a texture, for if there were any large Pores in this Membrane, the Air wou'd pass thro' it into the Cavity of the Thorax, and prevent the dilatation of the Lungs, and by consequence there wou'd be an end of breathing. Mr *Cowper*, Dr *Morley*, Pray be pleas'd to give your Opinion of these Matters.

Dr *Morley*, Those which seem to be Questions of greatest moment, are, whether there was a necessity for this Body (if drown'd) to have a great quantity of Water in it, and whether Bodies thrown dead into the Water float: To the first, I answer positively, that there is no absolute necessity, that she should have a great quantity of Water in her; and I think the question Mr *Cowper* ask'd Dr *Consworth*, whether he had like to be drowned by accident or design, suits with my assertion; for if this Gentlewoman did voluntarily drown herself, she then in all likelihood threw herself into the Water, with a resolution of keeping her Breath for a speedy suffocation, and then if upon the first endeavours for respiration (which naturally must be) she drew into her Lungs two Ounces of Water, it was the same thing to drowning of her, as if there had been two Tun. We see the same thing done by Divers, in order to save themselves, as it happened to this unfortunate Gentlewoman, in her design of destroying herself: If a Diver before he comes to the surface of Water, should so far mistake his Power of holding his Breath, that he should be forced to endeavour respiration, the little Water he drew into his Lungs by this attempt to respire, may drown him. We last Night drown'd a Dog, and afterwards dissected him, and found not a Spoonful of Water in his Stomach, and I believe about two Ounces in his Lungs, while we were doing this, we drown'd another, and he lay at the Bottom and did not float; no more would he have done, if he had been hang'd before thrown into the Water; we took him up, and upon opening him, we found much about the same quantity of Water in his Lungs, or little or none in his Stomach, they both froth'd at Nose and Mouth, because the Water coming into the little Bladders of the Lungs, and there meeting with Air, a commotion arose between the Water and Air, which caused the froth. To the second question, I think if Bodies new killed swim, 'tis by accident, for the Reason that Bodies swim, is because by putrification they rarifie, by rarification they grow lighter, which brings them to the Top of the Water.

Mr *Cowper*, I desire to know if any Man of Skill in Prudence, would give his Opinion?—

Mr Bar. *Hatfell*, That is not a proper question.

Mr *Cowper*, Then I will ask it thus, do you think, Doctor, it is to be known six Weeks after, if a Person was drowned. Dr *Morley*, I think it is morally impossible. Mr *Cowper*, Can there be any Water in the Thorax?

Dr *Morley*, By an Imposthume, or some violence to nature possibly, but I think no otherwise.

Mr *Cowper*, Dr *Wool*, what is your Opinion if a Person be drowned, whether it can be discovered 6 Weeks after?

Dr *Woolaston*, My Lord, I think it is impossible to be known, for if there had been never so much Water in the Body at first, it could not lye there so long, but must of necessity have forced its way out. We see in Persons that dye of Dropsies, that the Water will work it self out (and sometimes burst the Body) before it is buried. And I am sure, if it do so in Dropsies where there are no visible Passages for it to get out at, it must do so much more in drowned Persons, where the Water lies only in the Stomach and Guts; and has nothing to hinder its working out, when it ferments, as it always doth. Mr *Cowper*, Have you ever made any Experiments in that nature, Doctor?

Dr *Woolaston*, I have made no Experiments, but I have seen a very particular instance. Mr Bar. *Hatfell*, That is very well, pray let us hear it, Doctor.

Dr *Woolaston*, My Lord, about 3 Years since, I saw 2 Men that were drowned out of the same Boat. They were taken up the next Day after they were drowned. One of 'em was indeed prodigiously swell'd, so much that his Cloaths were burst in several places of his Sides and Arms, and his Stockings in the Seams; his Hands and Fingers were strangely extended, his Face was almost all over black; but the other was not in the least swell'd in any Part, nor discoloured. He was as lank, I believe, as ever he was in his Life-time, and there was not the least sign of any Water in him, except the watry froth at his Mouth and Nostrils. My Lord, this I saw my self, and took very particular notice of it.

Mr *Jones*, Did you see these Bodies taken out of the Water your self, Doctor? Dr *Woolaston*, No, Sir. Mr *Jones*, How long had they been taken out when you saw them? Dr *Woolaston*, I enquired, and to the best of my Memory, it was that same Day?

Mr Bar. *Hatfell*, But what do you think Doctor, of a Persons being drown'd, without taking in any Water?

Dr *Woolaston*, My Lord, what is taken in is, I believe chiefly at the surface of the Water, when they open their Mouths for Breath, and the Water that rushes in, they are forc'd to drink down, to keep it from their Lungs. But when the Head is quite under Water, I don't think it is possible for any quantity to get down into the Stomach; because it being Breath they open for, the very first Water they take in, would of necessity fill the Lungs, and when the Breath is stop'd, I don't see how they can swallow.

Mr *Cowper*,

Mr Cowper, Dr Gelftop, what is your Opinion of this matter ?

Dr Gelftop, I don't think they can make any Judgment of Persons being drowned after six Weeks time.

Mr Cowper, Can any Water get into the Thorax ?

Dr Gelftop, No, not unless the Lungs be putrified.

Mr Cowper, Is a great quantity of Water necessary to Persons dying by drowning.

Dr Gelftop, No, only so much as may hinder respiration.

Mr Cowper, Now, my Lord, I would call Mr William Cowper, and because of his Name, I must acquaint your Lordship, that he is not at all related to me, tho' I should be proud to own him if he were so, he is a man of great Learning, and I believe most People admit him the best Anatomist in Europe.

Mr Cowper, Pray will you give your Opinion of this matter ?

Mr W. Cowper, My Lord, I hope what I shall say, will not be suspected because I am of the same Name, for this Gentleman is an utter Stranger to me.

Mr Bar. Hatsell, Pray, Mr Cowper, without any Apology, give your Opinion concerning Persons drowned, and how 'tis with them in their inward Parts ?

Mr W. Cowper, I give you a short account, I hope to your Satisfaction too, my Lord. I will not only speak from Reason, but give you the Testimony of the Experiments I have made upon this occasion. My Lord, I heard it made a mighty Argument, that this Person had no Water that seemed to flow out, but the Witnesses agree there was a froth. Now, my Lord, it was not reasonable to expect any thing but froth. My Lord, had she been thrown into the Water, and made her utmost efforts, which she would then have done to have sav'd herself, and been often buoyed up to the Top of the Water, no doubt but she would have swallowed a considerable quantity of Water before she had been drowned ; and it may be expected to flow from her, if her Head had been inclined downwards.

This is a Truth that no man can deny, who is acquainted with any thing of this nature, that when the Head of an Animal is under Water, the first time it is obliged to inspire (or draw in Air) the Water will necessarily flow into its Lungs, as the Air would do if it were out of the Water ; which quantity of Water (if the Dimensions of the Wind-pipe and its branches in the Lungs be considered) will not amount to three Inches square, which is about three Ounces of Water. Nor is a greater quantity of Water in the Wind-pipe necessary to choak any Person, if we do but reflect what an ebullition is caused by its meeting with the Air, which remain'd in the Lungs, whereby a small quantity of Water is converted into a froth, and the Channel of the Wind-pipe, and those of the Bronchia are filled with it ; inasmuch that no Air can enter the Lungs, for the office of respiration. After a Suffocation is thus commenced (I am apt to think) all regular animal Actions are perverted, and particularly that of swallowing (or deglutition) and what Water flows into the Lungs at the instant, or after this Suffocation, is from its own weight ; which is more or less as the Body is farther under, or nearer the surface of the Water. My Lord, I don't speak this by way of conjecture or Hypothesis, but I have made Experiments, which have suggested what I here offer. I shall by the by tell you how fallacious the first Experiment was, when I proposed to satisfy myself, whether a dead Body would float in Water ; it happened, that a Spaniel, that had a great deal of long hair was hanged for this purpose, which I found swim on the surface of the Water ; but when I considered that his hair might buoy him up, I caused another Dog, which had shorter and less hair to be hanged, and put into the Water, which (agreeable to what I had always conceived of a Human Body) sunk directly to the Bottom. In order to satisfy myself what quantity of Water was necessary to enter the Body of an Animal, and cause a suffocation in Water, I caused three Dogs when alive to be suddenly plunged under Water, till they were stifled, one was before I left London, the other two I made the Experiment on last Night, in the presence of Dr Sloane and Dr Morley, and we could not compute there was more than three Ounces of Water in their Lungs, and none that we could perceive in their Stomachs.

Dead Bodies necessarily sink in Water, if no distension of their Parts buoy them up ; this distension sometimes happens before Death, at other times soon after, and in Bodies that are drowned after they lye under Water : This enlargement of them is caused by a rarefaction of the humors within the Cavities, and the Body necessarily rises to the surface of the Water. Your Lordship, may infer this from what the Seamen told you, and the great weight they use to fasten to their Bodies that died of Diseases, was not of such use to sink them, as it was to prevent their floating afterwards ; so that the weight was necessary for those that were killed, as well as those that died of Diseases.

It is so commonly known, that the Contents in the Stomach of a dead Body are discharged by the Mouth and Nostrils so soon as it begins to ferment, and the Belly becomes distended, that 'tis no wonder that Water, if the greatest quantity that had been in the Stomach, or any thing else that was fluid, must be forced from thence six Weeks after Death.

My Lord, I can't but think it ridiculous to expect Water in the Cavity of the Thorax ; it is such a conceit as nothing in Nature can account for : Unless the Lungs had suffered some Apothumation, or the like, whereby the Water may pass their outward Membranes into that Cavity.

Mr Cowper, With your Lordship's favour, I now think it a proper time to make this Observation. The Witnesses that have given Evidence for the King, do say, they believe she was not drowned ; but they have not pretended to say how she died otherwise.

Mr Bar. Hatsell, That is very true.

Mr Cowper, Dr Crell, I desire you will be pleased to give an Account of this Matter.

Dr Crell, My Lord, I have little to say in this Affair, the Physicians that have been Examined already, having made it out, that Persons who are drowned may have but little Water in their Bodies ; but I have taken what pains I could, upon so short warning, and I will tell you the Opinion of several eminent Authors. My own Opinion is, That a very small quantity of Water, not exceeding three Ounces, is sufficient to drown any Body ; and I believe that the reason of the Suffocation, or of any Persons being stifled under Water, is from the intercepting of the Air, that the Person can't breath, without which he cannot live. Now my Lord, I will give you the Opinion of several ancient Authors.

Mr Bar.

Mr Baron *Hatfell*, Pray Doctor tell us your own Observations,

Dr *Crell*, My Lord, it must be Reading as well as a Man's own Experience, that will make any one a Physician; for without the Reading of Books of that Art, the Art it self cannot be attained to; besides, my Lord, I humbly conceive, that in such a difficult Case as this, we ought to have a great deference for the Reports and Opinions of Learned Men: Neither do I see any reason why I should not quote the Fathers of my Profession in this Case, as well as you Gentlemen of the Long-Robe quote *Coke* upon *Litton* in others; but I shall not trouble the Court long, I shall only insist upon what *Ambrose Parry* relates in his Chapter of Renunciations. He was chief Surgeon to *Francis* the First, employ'd by him in most of his Sieges and Battles against the Emperor *Charles* the Fifth, and consequently must observe, and could not be ignorant of such like Casualties in such great Bodies of men. He tells us, that the certain Sign of a Man's being drown'd, is an appearance of Froth about his nostrils and mouth. Now, my Lord, I think that every one of the King's Evidences observ'd it in the present Case, and a Woman swore, that she saw her purge at the Nose; which could not be, as he declares, if the Person had been strangled, or otherwise kill'd before.

As to the quantity of Water requisite to drown a Person, I believe that 3 Ounces, or less, is enough; to wit, as much as will fill the Wind-pipe, and so stop the breathing of the Person drowning. I'm not now to descant upon matter of Fact, whether she drown'd her self; but my firm Opinion is, that she was drown'd; for though sometimes, not always, there is Water found in the Bodies of such Persons, yet where-ever it be, besides the Lungs, it is superfluous, as to this end, and accidental upon violent Strugglings.

Mr *Cowper*, I desire Mr *Harriot* may be ask'd what Observations he hath made concerning this matter.

Mr *Harriot*, My Lord, when I was a Surgeon in the Fleet, I made it always my Observation when we threw Men over-board that were kill'd, some of them swam, and some sunk; and I remember, particularly when the *Sandwich* was burnt, we saw abundance leap off from on board and they sunk directly, but in a little time I saw some swim again.

Mr Baron *Hatfell*, When a dead Body is thrown over-board, does it sink or swim?

Mr *Harriot*, I always observ'd that it did sink; when we were in the Chahnel, and in time of Peace, we never threw any over-board but we put some weight to them, but it was not to make them sink, but for decency sake, that they might not be driven to Shoar when they began to float.

Mr *Cowper*, I desire that Mr *Bartlet* may be ask'd to the same purpose.

Mr *Bartlet*, I have been in several of the King's Ships of War that have been disabled and forc'd to lie by, in several Engagements between the *French* and *English*, and I never saw any Bodies float either of the Men that were kill'd in our Ship, or in the Ships that have been near us, I have not seen a Body upon the Surface of the Water.

Mr Baron *Hatfell*, Another Witness said, that after an Engagement he saw them swimming.

Mr *Bartlet*, I can't tell what he saw, my Lord, but what I say I am ready to make Oath of.

Mr *Cowper*, Dr *Camlin*, will you please to give my Lord and the Jury an Account, Whether you were employ'd by the Coroners Inquest to view the Body of *Mrs Stout*, after she was drowned, and the Marks upon it, and tell my Lord your Opinion of it.

Mr *Camlin*, I was sent for by the Coroner and Jury that sat upon the Body of *Mrs Sarah Stout*, the Coroner being then at her Mother's House, and the Coroner desired Mr *Dimsdale* and me to go and take notice of the marks upon her Neck, and upon her Breast; we view'd all about, and perceiv'd a mark under her left Ear, we look'd to see if there was any Contusion, and we perceiv'd a settlement of Blood upon her Breast, and another upon her Arm; and when we came back Mr *Dimsdale* made the Report (I stood by him at that time) That it was only a common Settlement.

Mr *Cowper*, Pray Mr *Camlin*, Was the Spot above or below the Coller-bone?

Mr *Camlin*, Below the Coller-bone.

Mr *Cowper*, What did Mr *John Dimsdale* say then, concerning this matter?

Mr *Camlin*, I understood that he was of Opinion that it was only a common Stagnation of Blood, that happens in the case of drowned People. Mr Baron *Hatfel*, Did he say so to the Jury?

Mr *Camlin*, Mr *Dimsdale* spake for us both, and I understood him that it was a Stagnation that did commonly happen to drowned People, and that was my Opinion of it too.

Mr *Cowper*, And that you agreed to be your Report?

Mr *Camlin*, Yes.

Mr *Cowper*, Pray, Mr *Camlin*, Was you present when the Child that was drowned in the same place was taken up?

Mr *Camlin*, Yes, it was taken up some time after near the same place, as I was told, and there was more and greater Signs of the Stagnation of Blood on the Body of this Child, than on the Body of *Mrs Stout*, the Child's Face was black and discolour'd.

Mr Baron *Hatfell*, How old was the Child?

Mr *Camlin*, Between 10 and 11, as near as I could guess.

Mr Baron *Hatfell*, Had *Mrs Stout* any Signs of being strangled when you saw her first?

Mr *Camlin*, Nothing at all that I could discern.

Mr *Cowper*, My Lord, I will give you no more trouble upon this Head; I shall go now to the next thing I open'd, and shall prove substantially, that this Gentlewoman is not only more to be suspected to have murder'd her self than to be murder'd by any body, but 'tis almost a certainty, that she was the cause of her own Death. Mr *Firmin* I would begin withal if he be here.

(But he not presently appearing)

Mr *Cowper*, Then, my Lord, if you please, I will desire Mr *Bowd* in the mean time to give your Lordship an account of what he knows of the melancholy of this Gentlewoman.

Mr *Bowd*, 'Twas much about this time 12 months, I had some business in *London*, and she sent to me, to know when I should go to *London*, and I vvaited upon her before I vvent, and she desired me to do some Business for her, and when I return'd I acquainted her with what I had done, and sitting together in the Hall, I ask'd her, What's the matter with you? Saith I there is something more than ordi-

nary, you seem'd to be melancholy : Saith she, you are come from *London*, and you have heard something or other : Said I, I believe you are in Love ; in Love ! said she, Yes saith I, *Cupid* that little Boy hath struck you home : She took me by the Hand, truly said she I must confess it, but I did think I should never be guilty of such a Folly, and I answer'd again, I admire that should make you uneasy ; if the Person be not of that Fortune as you are, you may if you love him, make him happy and your self easie. That can't be, saith she, the World shall not say I change my Religion for a Husband, and some time after I had been at *London*, having bought some *India* Goods, she came to my Shop, and bought some of me for a Govvn, and afterwards she came to pay me for it, and I ask'd her, how do you like it, have you made it up ? No said she, and I believe I shall never live to wear it.

Mr Cowper, Pray how long is it since ?

Mr Bowd, It was about *February* or *January* before her Death, I ask'd her why she did not come to my House oftner, she said she had left off all Company and apply'd her self to reading, and Company was indifferent to her.

Mr Cowper, Mr Firmin, will you please to inform my Lord and the Jury what you know of Mrs *Sarah Stout*'s being melancholy ?

Mr Firmin, I did observe about three quarters of a Year ago that she was melancholy ; I can't say that she acknowledg'd her self to be so, but I have charg'd her with it.

Mr Cowper, Did you believe she was melancholy when you charg'd her with it ?

Mr Firmin, Yes, I did.

Mr Cowper, Mrs *Bendy*, if you please to inform the Court what you know of this Gentlewoman's being melancholy.

Mrs *Bendy*, Sir I can say she always acknowledg'd her self extremely melancholy, and when I have asked her how she did, she has said pretty well in Health, but so much troubled with melancholy, she could not tell what to do with her self.

Mr. Cowper, Did she tell you any thing particularly.

Mrs *Bendy*, It disorder'd her so, she said, that she had rather have chosen Sickness than so much disorder in her mind.

Mr Cowper, Have you any thing more to recollect ?

Mrs *Bendy*, Nothing but what I heard from Mrs Cowper.

Mr *Baron Hatfield*, How old was this Gentlewoman ?

Mrs *Bendy*, About 26.

Mr Cowper, Call Mrs *Jane Low*. *Martha Grub*, and Mrs Cowper. Mrs *Low*, Pray do you inform my Lord and the Jury, what you know concerning the Melancholy of Mrs *Sarah Stout*, and when you first observ'd it.

Mrs *Low*, It was a Week before Whitson-tide was Twelvemonth.

Mr Cowper, What did she say then ?

Mrs *Low*, She often complain'd to me that she was very melancholy and uneasy, one time particularly, as we were walking together in the Fields, I ask'd her the occasion of it, and she told me that was a Secret ; but she said she led a very melancholy Life ; saith I, I am apt to believe you are in Love, she did not disown it, and with a little more speaking she own'd she was ; I ask'd her who the Person was, she said that should be a Secret, but it would end her Days ; saith I, a Woman of your Fortune may command any body, she shook her Head and said no ; perhaps, saith I, he may not be a Quaker, and you may be afraid of disobliging your Mother ; but if you tell your Mother that your Life depends upon it, your Mother (rather than lose her only Child) will consent to it ; she said, no, it was a Person she could not marry, and shook her Head and look'd very melancholy.

Mr Cowper, When was this ?

Mrs *Low*, This was the Week before Whitson-tide, and in Whitson-Week she saw me often, and said she would take her full swing of Melancholy when her Mother was away, and she us'd to lie a Bed that Week.

Mr Cowper, Have you observ'd any melancholy in her since ?

Mrs *Low*, Yes, at several times.

Mr Cowper, Do you remember any thing of an intermitting Fever ?

Mrs *Low*, Yes, she told me her melancholy had occasion'd an intermitting Fever, and I mention'd Dr. *Eales* to her, and she said her Distemper lay in her mind, and not in her body, and she would take nothing, and the sooner it did kill her the better.

Mr Cowper, Did she say any thing of her disposition to Reading ?

Mrs *Low*, She said nothing delighted her now, neither Reading nor any thing else.

Mr Cowper, My Lord, *Sarah Walker* when I ask'd her if she did not observe the melancholy of her Mistress, and whether she had not said that her Mistress had been melancholy, denied that she had said so, pray have you heard her say any thing to that purpose ?

Mrs *Low*, I have often ask'd her how her Mistress did, and she would answer, very much indispos'd, but not otherwise.

Mr Cowper, Mrs Cowper, what do you know of Mrs *Stout*'s melancholy.

Mr Cowper, My Lord, this is my Brother's Wife.

Mrs Cowper, About Spring was Twelvemonth she came up to *London* ; and I believe it was not less than once or twice a Week I saw her, and I never had an opportunity to be an Hour alone with her at any time, but I perceiv'd something of her melancholy ; I have ask'd her the Reason of it several times, and sometimes she seem'd to dislike her Profession, being a Quaker, and sometimes she would say that she was uneasy at something that lay upon her Spirits which she should never out-live, and that she should never be well while she was in this World ; sometimes I have endeavour'd to persuade her out of it seriously, and sometimes by raillery, and have said, are you sure you shall be better in another World ? and particularly I remember I have said to her, I believe you have Mr *Marshall* in your Head, either have him or do not trouble your self about him, make your self either easie one way or another ; and she hath said no in an indifferent way, I cannot make my self easie ; then I have said marry him, no saith she I can't. Sometimes with Company she would be diverted, and had frequently a way of throwing her Hands, and shew'd great disturbance and uneasiness. This time Twelvemonth, at the Summer Assizes, I was here six days, and I saw her every day, and one time among other Discourse, she told me she had received great disturbance from one *Theophilus*, a Waterman and a Quaker, who coming down to old Mrs *Stout*, that was then lame, she had gather'd about 20 or 30 People together to hear him preach, and she said,

he

directed his Discourse to her, and exasperated her at that rate, that she had thoughts of seeing no body again; and said, she took it hainously ill to be so us'd, and particularly that he told her, that her Mother's falling outwardly in the Flesh, should be a Warning that she did not fall inwardly, and such canting stuff as she call'd it; and she said, that *Theophilus* had so us'd her, that she was ashamed to shew her Head. Another time, the same Week, she had a Fever, and she said she was in great hopes it would end her days, and that she neglected her self in doing those things that were necessary for her Health, in hopes it would carry her off, and often wish'd her self dead; another time, which I think was the last time I saw her, was at my Sister's Lodgings, and I sent for her to drink a Dish of Tea with us, and she came in a great tofs and melancholy; saith I, What is the matter you are always in this odd Humour? saith she, I can't help it, I shall never be otherwise; saith my Sister, for God's sake keep such Thoughts out of your Head as you have had, don't talk any more of throwing your self out of Window; saith she, I may thank God that ever I saw your Face, otherwise I had done it, but I can't promise I shall not do it.

Mr Baron *Hatsell*, What is your Name, Madam?

Mr *Covvper*, 'Tis my Brother's Wife, my Lord. I desire Mrs *Toler* may give an account what she knows as to her being melancholy.

Mrs *Toler*, My Lord, she was once to see me, and she look'd very melancholy, and I ask'd her what was the matter, and she said something had Vex'd her that Day, and I ask'd her the Cause of it, and she stop'd a little while, and then said she would drown her self out of the way.

Mr Baron *Hatsell*, How long ago was this?

Mrs *Toler*, About Three quarters of a Year ago.

John *Stout*, I desire to know whether she has always said so, or not told another Story.

Mrs *Toler*, I told you no Story; it may be I did not say so much to you, but I said she talk'd something of drowning. I have been with her when Mr *Covvper*'s Conversation and Name has been mention'd, and she said she kept but little Company, that sometimes she went to Mrs *Louv*'s, and that she kept none but civil modest Company, and that Mr *Covvper* was a civil modest Gentleman, and that she had nothing to say against him.

Mr *Covvper*, This is Mrs *Elizabeth Toler*, my Lord.

Mrs *E. Toler*, My Lord, she came to see me some time after Christmas, and seem'd not so cheerful as she us'd to be; saith I, What is the matter? Why are you not so merry as you us'd to be? Why do you not come often to see me? Saith she, I don't think to go abroad so much as I us'd to do, said, it would be as much a Rarity to see her go abroad, as to see the Sun shine by Night.

Mr *Covvper*, Mrs *Grub* what do you know concerning Mrs *Stout*'s pulling out a Letter at her Brother Mr *John Stout*'s? give an account of it, and what she said upon that occasion.

Mrs *Grub*, I have a Daughter that lives at *Guernsey*, and she sent me a Letter, and I pray'd Mrs *Sarah Stout* to read the Letter, and while she was reading of it I cry'd; saith she, Why do you cry? Said I, because my Child is so far off; said she, if I live till Winter is over, I will go over Sea as far as I can for the Land.

Mr Baron *Hatsell*, What was the occasion of her saying so?

Mrs *Grub*, I was washing my Masters Study, Mrs *Sarah Stout* came in, and I had a Letter from my Daughter at *Guernsey*, and I pray'd Mrs *Sarah Stout* to read it, and she read my Letter, and I cry'd, and she ask'd me why I cry'd, said I, because my Child is so far off, saith she, if I live to Winter, or till Winter is over, I will go over-Sea as far as I can for the Land,

Mr *Covvper*, Now my Lord, to bring this matter of melancholy to the point of time, I will call one Witness more, who will speak of a remarkable Instance that hapned on *Saturday* before the *Monday* when she did destroy her self.

Call Mr *Joseph Taylor*.

Pray will you inform the Court and Jury of what you observ'd on *Saturday* before the *Monday* on which Mrs *Stout* destroy'd her self?

J. *Taylor*, I hapned to go in at Mr *Firmin*'s Shop, and there she sat the *Saturday* before this Accident hapned the former Affizes, and I was saying to her, Madam, I think you look strangely discontented, I never saw you dress'd so in my life; saith she, the Drefs will serve me as long as I shall have occasion for a Drefs.

Mr *Covvper*, In what Posture did she appear in the Shop?

J. *Taylor*, She appear'd to be very melancholy.

Mr *Covvper*, What part of her Drefs did you find fault with?

J. *Taylor*, It was her Headcloaths.

Mr *Covvper*, What was the matter with them?

J. *Taylor*, I thought her Head was dawb'd with some kind of Grease or Charcoal.

Mr *Covvper*, What Answer did she make?

J. *Taylor*, She said they would serve her time.

Mr *Covvper*, As to this piece of Evidence, if your Lordship pleases, I desire it may be particularly taken notice of, it was her Head-dress that she said would serve her time. Pray, Mr *Taylor*, was you at Mr *Barfoot*'s when I came in there on *Monday* morning?

J. *Taylor*, Yes, I went up Stairs with you into your Chamber.

Mr *Covvper*, Pray what did I say to Mr *Barfoot*?

J. *Taylor*, You ask'd him if they had receiv'd a Letter from your Brother, and he said no, not that he knew of, but he would call his Wife, and he did call his Wife, and ask'd her if she had receiv'd a Letter, and she said no; then saith you, I will take up this Lodging for mine, and accordingly you went up Stairs, and I went with you, and staid there about four times as long as I have been here.

Mr *Covvper*, Are you very sure I said I would take up my Lodging there?

J. *Taylor*, Yes, I am very sure of it.

Mr Bar. *Hatsell*, What time of the day was it?

J. *Taylor*, 'Twas the fore-part of the day, while I was there, my Lord, Mrs *Sarah Stout*'s maid came to invite Mr *Covvper* to her House to Dinner.

Mr *Covvper*, Did you know any thing of my sending to the Coffee-house?

J. *Taylor*, You sent to the Coffee-house for your things.

Mr Baron *Hatsell*, Did Mr *Covvper* use to lie at Mr *Barfoot*'s?

J. *Taylor*, His Brother did, but I do not know whether this Gentleman did; but at that time he took up that place for his Lodging, and said it was all one, my Brother must pay for't, and therefore I will take it up for my self.

Mr *Covvper*,

Mr. Cowper, call Mrs. Barfoot and her Maid.

But they not presently appearing.

Mr. Cowper, My Lord, in the mean time I will go on to the other part of my Evidence, in opening of which I shall be very short.

My Lord, my Wife Lodging at *Hertford*, occasion'd me frequently to come down; Mrs. Stout became well acquainted with her, when Business was over in the long vacation, I resided pretty much at *Hertford*, and Mr. Marshall came down to pay me a Visit, and this introduc'd his Knowledge of Mr. Stout, when she was first acquainted with him she receiv'd him with a great deal of Civility and Kindness, which induc'd him to make his Addresses to her, as he did by way of Courtship. It happen'd one Evening, that she and one Mrs. Crook, Mr. Marshall, and my self, were walking together, and Mr. Marshall, and Mrs. Crook, going some little way before us, she took this Opportunity to speak to me, in such Terms I must confess surpriz'd me: Says she Mr. Cowper, I did not think you had been so dull; I was inquisitive to know in what my dullness did consist: Why says she, do you imagine I intend to Marry Mr. Marshall, I said I thought she did, and that if she did not, she was much to blame in what she had done, no says she I thought it might serve to divert the Censure of the World, and favour our Acquaintance. My Lord, I have some original Letters, under her own Hand: which will make this fully manifest, I will produce the Letters, after I have call'd, Mr. Marshall.

Mr. Marshall.

Mr. Marshall, If your Lordship pleases, it was in the long vacation, I came down to spend a little of my leisure time at *Hertford*, the reason of my going thither, was because Mr. Cowper was there at that time: The first Night when I came down, I found Mrs. Sarah Stout Visiting at Mr. Cowper's Lodgings, and there I first came acquainted with her; and she afterwards gave me frequent Opportunities of approving that Acquaintance, and by the manner of my Reception by her, I had not reason to suspect the use it seems I was designed for; when I came to Town, my Lord, I was generally told of my Courting Mrs. Stout; which I confess was not then in my Head; but it being represented to me as a thing easily to be got over; and believing the Report of the World as to her Fortune, I did afterwards make my Application to her: but upon very little Tryal of that sort, I receiv'd a very fair Denial. and there ended my Suit: Mr. Cowper having been so friendly to me as to give me notice of some things that convinc'd me I ought to be thankful I had no more to do with her.

Mr. B. Hatfield, When did she cast you off?

Mr. Marshall, I can't be positive as to the time my Lord, but it was in Answer to the only serious Letter I ever writ to her; as I remember, I was not over importunate in this Affair, for I never was a very violent Lover.

Mr. B. Hatfield, Well, but tell the time as near as you can.

Mr. Marshall, I believe it was the Second or Third time I came down to *Hertford*, which is about a Year and half since; and during the whole of my Acquaintance with her, I never till then found her averse to any Proposal of mine; but she then telling me her Resolution was not to comply with what I I desir'd, I took her at her Word, having partly by my own Observation, but more by Mr. Cowper's Friendship, been pretty well able to guess at her meaning.

Mr. Cowper, Because what you say may stand confirmed beyond contradiction, I desire you to say whether you have any Letters from her to your self.

Mr. Marshall, Yes I have a Letter in my Hand, which she sent me upon occasion of some Songs I sent her when I came to Town, which she had before desired of me, and this is a Letter in Answer to mine 'tis her Hand writing, and directed to me.

Mr. B. Hatfield, How do you know 'tis her Hand writing?

Mr. Marshall, I have seen her Write, and seen and receiv'd several Letters from her.

Mr. Cowper, Pray shew it Mr. Beale.

Mr. Beale, I believe it to be her Hand I have seen her Write, and have a Receipt of hers.

Clerk of Arraignment, 'tis directed to Mr. Thomas Marshall, at Lyons-Inn, and Dated Sept. 26. 1697.

S I R,

Sept. 26, 1697.

Yours came very safe, but I wish you had explained your meaning a little more about the Accident you speak of, for I have been puzzling my Brains ever since, and without I shall set my self to Conjuring, I cannot imagine what it should be, for I know of nothing that happened after you went away, nor no Discourse about you, only when we were together, the Company would sometimes drink your Health, or wish you had been there, or the like. So that I fancy it must be something Mr. --- has invented for diversion; tho' I must confess we have a sort of people here, who are inspired with the gift of foreknowledge, who will tell one as much for nothing as any Astrologer will have a piece of Money for, but to leave jesting, I cannot tell when I shall come to London; unless it be for a night away, about some business with my Brother, that I must be obliged to attend his motions; but when I do, I shall remember my promise, although I do not suppose you are any more in earnest than my self in this matter. I give thanks for your Songs, and your good Wishes, and rest your loving Duck.

Mr. Cowper, Have you any more Letters?

Mr. Marshall, Yes, I have another Letter here, but before 'tis read I think 'twill be proper to give Court an account of the occasion of its being writ. I waited on Mrs. Stout one Evening at her Lodging in Houndsditch, and at our parting she appointed to meet me the next, day and to excuse her not coming according to that appointment, she sent me this Letter.

Cl. of Arr. 'Tis directed to Mr. Thomas Marshall, 'tis without date.

Mr. Marshall.

I met unexpected, with one that came from H---d last night, who detained me so long with relating the most notorious Inventions, and Lyes that are now extant amongst that people, that I could not possibly come till it was late, and this day was appointed for business, that I am uncertain when it will be finished; so that I believe I cannot see you whilst I am in Town. I have no more at present, but that I am your obliged Friend.

Mr. Cowper, Now, my Lord, if your Lordship please, I proceed to shew you, that I went not so much voluntarily as prest by her to come to this house, and for that I will produce one Letter from her to my self; and, my Lord, I must a little inform you of the nature of this Letter. It is on the outside directed

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rected to Mrs. Jane Ellen, to be left for her at Mr. Hargrave's Coffee-house. For her to direct to me at a Coffee house might make the Servants wonder, and the Post-man might suspect, and for that reason she directed it in that manner. There was Mr. Marshall by when I received it, and I can prove the hand by Mr. Beale.

Mr. Marshall, My Lord, I verily believe I was by, and that Mr. Cowper shew'd me this Letter immediately on receipt of it, as he had done several others from the same hand.

Cl. of Arr. This is directed for Mrs. Jane Ellen : 'tis dated March the 5th, without any Year.

S I R,

March the 5th.

I Am glad you have not quite forgot that there is such a Person as I in being, but I am willing to shut my Eyes, and not see any thing that looks like Unkindness in you, and rather content my self with what Excuses you are pleased to make, than be inquisitive into what I must not know; I should very readily comply with your proposition of changing the Season, if it were in my Power to do it, but you know that lies altogether in your own Breast: I am sure the Winter has been too unpleasant for me to desire the continuance of it. And I wish you were to endure the sharpness of it, but for one hour, as I have done for many long Nights and Days, and then I believe it would move that rocky heart of yours, that can be so thoughtless of me as you are; but if it were designed for that end, to make the Summer the more delightful, I wish it may have the effect so far as to continue it to be so too, that the Weather may never over-cast again; the which if I could be assured of, it would recompence me for all that I have ever suffered, and make me as easie a creature as I was the first moment I received breath; when you come to H---- pray let your Steed guide you, and don't do as you did the last time; and be sure order your affairs to be here as soon as you can, which cannot be sooner, than you will be heartily welcome to your

For Mrs. Jane Ellen at Mr. Hargrave's
near Temple-Barr, London?

very sincere Friend

Mr. Cowper, Though 'tis directed to Mrs. Jane Ellen, it begins in the inside, Sir; and 'tis dated the 5th of March next before the 13th.

Mr. Bar. Hutfell, What March was it?

Mr. Marshall, I kept no account of the time, but I am very positive by the Contents, that Mr. Cowper shew'd me this Letter, and I read it, but by my now remembrance, it should be longer since than March last.

Mr. Cowper, It was March last. That which will set Mr. Marshall's memory to rights is this other Letter which I received at the Rainbow, when he was by, and he read it, and it importuning me to a matter of this kind, I did produce it to my Brother and him, they both knew of it, and both read it, and that will refresh his memory concerning the date of the other.

Mr. Marshall, My Lord, I was in the Coffee-house with Mr. Cowper when he received this Letter, and he afterwards shew'd it to Mr. Will. Cowper at the Covent-Garden Tavern, when I was by.

Cl. of the Arr. This is dated the 9th of March, and directed to Mrs. Jane Ellen, at Mr. Hargrave's.

S I R,

March 9.

I Writ to you by Sunday's Post, which I hope you have received; however as a Confirmation, I will assure you, I know of no inconveniency that can attend your cohabiting with me, unless the Grand Jury should thereupon find a Bill against us, but won't fly for't, for come Life, come Death, I am resolved never to desert you, therefore according to your appointment, I will expect you, and till then I shall only tell you, that I am

Yours, &c.

For Mrs. Jane Ellen, at Mr. Hargrave's near Temple-Barr, London

Mr. Cowper, If your Lordship please, I will further prove this Letter by my Brother.

Mr. W. Cowper, I can bear my Brother Witness, that when he has been advised to make these Letters part of his defence, he has expressed great unwillingness, and has said, nothing but the life of these Gentlemen could incline him to it.

My Lord, all I can say to this matter is this, I do remember, that when she was one time in London, I think it was about a year and an half since, I am not positive as to the time, but when she was in London, my Brother came in the Morning to my Chamber in the Temple, and after some discourse, he told me he had received a Letter from Mrs. Stout that day, wherein she said, she intended him a visit at his Chamber that Afternoon, he told me at the same time, that his Friend Mr. Marshall had some thoughts of her, and therefore for that, as well as other reasons, he would decline receiving the visit intended him; and upon consideration, this was the method agreed upon: At that time I lived with my Father in Hatton-Garden, and this Gentlewoman having writ in the same Letter I now speak of, that she designed to dine there, and to come from thence in the Afternoon; says my Brother, you may casually, as it were, take occasion to say at Dinner, that my business obliges me to go to Deptford in the Afternoon, as in good earnest it did, as he then told me, and from that she may take a hint of my not being at home, and so save herself the disappointment of coming to my Chamber; I told him, I would find an opportunity of doing of it if I could. At Dinner my Father hapned to ask me, as he often did, when I saw my Brother; I took this hint and said, I had seen him at my Chamber in the Morning, and that he was gone to Deptford that Afternoon about some Law business. My Lord, Mrs. Stout was then at the Table. I no sooner said it, but I observ'd she chang'd colour presently, and rose with her Napkin, and went into the back Yard, and we saw her through a Sash-window fall into a Woman's Fit of Swooning, and they gave her the assistance that is usual in such cases.

My Lord, the next thing I can speak to is this; the Parliament sitting late the *Friday* before the *Monday* of the last Assizes at *Hertford*, I came late from Dinner, I had din'd about 7 a Clock, as I remember, and having occasion to speak with my Brother, I found him out by enquiry at the *Covent-Garden* Tavern and there was *Mr Marshall* of *Lions-Inn* with him. I had not drank above a Glass or two of Wine, but my Brother began with me; and said, I seldom trouble you with Affairs of mine, but now I do not know well how to avoid it. I have received an importunrt Letter, which I will shew you, it came from a Lady whose Name I believe you will guess; so he pull'd it out of his Pocket, and I read it so often, because of the oddness of the Expression, that I can say, I am sure this is the very Letter he shew'd me at the *Covent-Garden* Tavern, the *Friday* before the last Assizes; saith he, the occasion of my shewing it, is not to expose a Woman's Weakness, but I would not willingly lie under too many Obligations, nor engage too far; nor on the other hand, would I be at an unnecessary Expence for a Lodging. Upon this Subject there was some Discourse I think Foreign to this purpose, and therefore I would not trouble your Lordship with the Repetition of it; that which is material is this, I did undertake to write to *Mr Barfoot* to dispose of his Lodgings, where I us'd to be at the time of the Assizes, and my Brother with me. I said I would write the next day, being *Saturday*, but when I should have writ, it was very late, and I was weary, being then tied down to the Business of Parliament, and partly for that Reason, and partly in point of discretion, which I had upon my second thoughts, that 'twould be better for my Brother's Business to be at *Mr Barfoot's*, which is near the Court, and in the Market-place; I did neglect writing, and though I thought of it about 11 a Clock, yet, as I said, partly for one Reason, and partly for the other, I did not write that time: my Lord, my Brother could know nothing of this matter, for I did not see him from the *Friday* he shew'd me the Letter, till he went to the Assizes, so that he could not know before he was at *Hertford*, that I had not writ; my Lord, I say as to this Letter I am sure he shew'd me the *Friday* next before the last Assizes.

Mr Baron Hatfell, Let me see that Letter (VWhich was shewn his Lordship)

Mr Cowper, my Lord, one or two of the Jury seem to question whether the Letters are sufficiently proved; for their satisfaction, I will further prove them. Call *Mr John Beale*, *William Oker*, and *Mrs Lou*. My Lord, *Mr Beale* is one of their own Sect. (The Witnesses prov'd her Hand)

Jury, my Lord, we are satisfied.

Mr Baron Hatfell, I believe you may ask her Mother, she will tell you whether it be her Daughter's Hand.

Mrs Stout, How should I know! I know she was no such Person, her Hand may be counterfeited.

Mr Baron Hatfell, But if they were written in a more sober Stile, what would you say then?

Mrs Stout, I shan't say it to be her Hand, unless I saw her write it.

(Then the Letter was shewn to *Mr Stout*.)

Mr Stout, 'Tis like my Sister's Hand.

Mr Baron Hatfell, Do you believe it to be her Hand?

Mr Stout, No, I don't believe it, because it don't suit her Character.

Mr Baron Hatfell, But do you think she might not conceal from you what were her inward Thoughts?

Mr Stout, Not in such a degree as this.

Mr Cowper, Call *Mrs Barefoot* and her maid. I desire they may be ask'd what they know about my taking of Lodgings at their House.

Mr Baron Hatfell, That is taken for granted.

Barefoot, When you came to my House, you ask'd me, if I had received a Letter from your Brother, and I told you no.

Mr Cowper, What did I say to that.

Barefoot, Then you asked me if I expected you, and I told you yes, by reason I had heard nothing from you.

Mr Cowper, Where did I lodge that Night?

Barefoot, I had prepared the Lodging before you came, expecting you or *Mr Cowper* your Brother.

Mr Cowper, And did I come? *Barefoot*, Yes as you used to do.

Mr Cowper, Did I send for my things from the Coffee-house?

Barefoot, Yes you did, and I carried them up into your Chamber as I used to do.

Mr Baron Hatfell, Where did *Mr Cowper* dine that Day?

Barefoot, *Mrs Stout* sent her maid to desire him to come to Dinner at their House, whether he went thither or no I can't say, but he went out.

Mr Cowper, What time did I come into my Lodging at Night?

Barefoot, It was a little after 11.

Mr Cowper, You are sure I came in a little after 11?

Barefoot, Yes.

Mr Jones, By what Clock? by the Town Clock?

Barefoot, Yes.

Mr Cowper, Did I go out any more that Night?

Barefoot, No.

Mr Cowper, Is your maid there?

Barefoot, Yes.

Mr Baron Hatfell, What is your Name?

Hanwell, *Mary Hanwell*.

Mr Cowper, Pray what time was it I came to my Lodging?

Hanwell, You came in a little after Eleven a Clock.

Mr Cowper, Are you very positive in that?

Hanwell, Yes, I am very positive.

Mr Cowper, What was done before I went to Bed?

Hanwell, My Lord, I went up and made a Fire, and then I came down again, and then I went up and warmed *Mr Cowper's* Bed, and then he desired another Blanket, and I came down for it; and all this took up a considerable time, and *Mr Cowper* was in Bed before 12 a Clock.

Mr Cowper, Did I go out again that Night?

Hanwell, No, you went out no more.

Mr Cowper, Now, if your Lordship please, I would explain that part of *Sarah Walker* the Maid's Evidence,

vidence, where she says, her Mistress ordered her to warm the Bed, and I never contradicted it, Your Lordship observes the Words in the last of the two Letters, *No inconvenience can attend your Cohabiting with me; and afterwards I won't Fly for it: For come life come death I am resolved, and so on,-----* I had rather leave it to be observed, than make the Observation my self; what might be the dispute between us at the time the maid speaks of, I think it was not necessary she should be present at the Debate; and therefore I might not interrupt her Mistress in the Orders she gave; but as soon as the maid was gone, I made use of these Objections: I told Mrs *Stout* by what Accident I was obliged to take up my Lodging at Mr *Barefoot's*, and that the Family was sitting up for me: That my staying at her House under these Circumstances, would, in probability, provoke the Censure of the Town and County; and that therefore I could not stay, whatever my inclination otherwise might be: But, my Lord, my Reasons not prevailing, I was forc'd to decide the Controversie by going to my Lodging; so that the maid may swear true, when she says I did not contradict her Orders.

Mr Baron *Hatfield*, I believe you have done now, Mr. *Cowper*.

Mr *Cowper*, No, my Lord, I have more Evidence to give.

(Call *Elizabeth Spurr*.)

If your Lordship pleases to observe, I have already prov'd by two Witnesses, that I was actually at Mr *Barefoot's* a little after Eleven; so that if I was to rest upon that Proof, here is not the least Article of Time, in which it can be supposed I was employ'd in this matter. But says *Sarah Walker*, the maid, to obviate (I presume) this Evidence of mine, our House-Clock went faster than the Town-Clock: Now to answer this too, I shall further prove to your Lordship, that before I came to my Lodging, I was at the *Glove and Dolphin Inn*, where I had a little Account of about six or seven Shillings, as I remember, for Horse-keeping, and which I then paid.

Mrs *Spurr*, Do you remember my coming to your House, and at what time?

Spurr, The Clock struck Eleven, just as you came into the Door.

Mr. *Cowper*, How long did I stay at the *Glove*?

Spurr, About a quarter of an Hour.

Mr. *Cowper*, How far is it from the *Glove and Dolphin* to Mrs *Stout's* House?

Spurr, About a quarter of a mile; or not quite so far.

Mr. *Cowper*, Call *Mary Kingitt* and *George Man*.

(Who not then appearing.)

In the mean time, I would observe to your Lordship, That to go from Mrs *Stout's* House to the place where she was drowned, and to return from thence to the *Glove and Dolphin*, will take up at least half an hour, as I shall prove; and then the matter will stand thus: Says *Sarah Walker*; You went about a quarter after Eleven; but our Clock went half an Hour too fast: Then, according to her Account, I went three quarters after Ten by the Town-Clock; and if it requires, (as I say I shall prove it does) half an Hour to go to the Place where she was drowned, and to return from thence to the *Glove Inn*, that would make it a quarter past Eleven when I came to that Inn, by the Town-Clock, which it was not; and if I staid there a quarter of an Hour (which is proved I did) it must be half an hour after Eleven when I came to my Lodging, by the same Clock, which it was not; so that I think this matter, as to the time, is very clear: My Lord, to prove the time it requires to go from Mrs *Stout's* to the Place where she drowned her self, and to return to the *Glove*, I desire Sir *William Ashurst* may be called,

Sir *William Ashurst*, My Lord, I can't say I walked as fast as I could, but I went with a Gentleman I see here, to satisfy my self about the probability of this matter; I walked as People usually do, and I found it took up half an hour and a minute, when I walked with that Gentleman.

Mr. Bar. *Hatfield*, Who was with you, Sir?

Sir *William Ashurst*, Mr *Thompson* was with me, the time I mention, I walked it before with Sir *Thomas Lane*.

Mr *Thompson*, My Lord, indeed it will take a compleat half hour.

Mr. *Cowper*, I desire Sir *Thomas Lane* may give you an account of the distance between one place and the other.

Sir *Thomas Lane*, Sir *William Ashurst* and I did walk to the Place mentioned, and we were careful to take notice of the time, and it took up about 3 quarters of an hour, according to my Observation; and we did not stay at all by the way, except just to look upon the Hospital.

Mr. *Cowper*, Now, my Lord, *Mary Kingitt* and *George Man*, the Servants at the *Glove* are come: Pray Mrs *Kingitt* do you remember my coming to the *Glove and Dolphin*?

Kingitt, Yes.

Mr. *Cowper*, How long did I stay there?

Kingitt, About a quarter of an hour.

Mr *Cowper*, What was my Business there?

Kingitt, You came and enquired what you ow'd.

Mr. Ba. *Hatfield*, What a Clock was it then?

Kingitt, I thought it was about Eleven, our t'other maid told it Eleven.

Mr *Jones*, How came you to take notice of the time?

Kingitt, She heard the Clock go Eleven, but I did not.

Mr. *Cowper*, Was there any dispute about the Account?

Kingitt, You askt the Hostler how that came to stand in the Book, concerning the Horse; for you told him, you thought you had paid some part of it, and he told you, you had not.

Mr. *Cowper*, My Lord, with your Lordship's favour, I would ask *George Man* a Question to the same point. Do you remember my coming into the *Glove and Dolphin*?

Man, Yes.

Mr. *Cowper*,

Mr. Cowper. How long did I stay there ?

Man, You staid about a quarter of an hour, as near as I can guess.

Mr. Cowper, I will now call a Witness to prove, that this maid *Sarah Walker* is not so cautious and careful how she Swears, as I think she ought to be.

(Call Mrs Mince.)

Mr. B. Hatfel, Pray wherein has *Sarah Walker* said any thing that is false ?

Mr. Cowper, In this : I ask'd her when she gave Evidence, Whether she went out to see for her Mistress all that Night ; and, Whether her Mistress did not use to stay out a Nights ; and, Whether she herself had not used to say so ? If your Lordship pleases to remember, she said no. Pray Mrs Mince what have you heard Mrs Stout's maid say concerning her Mistress, particularly, as to her staying out all Night.

Mrs Mince, She hath said, That her Mistress did not love to keep Company with Quakers ; and that she paid for her own Board and her maids ; and that when she entertained any body, it was at her own Charge. And she hath said, that Mrs Stout used to ask, Who is with you Child ? And she would not tell her ; and that she did entertain her Friends in the Summer-house, now and then, with a Bottle of Wine. And when her Mother ask'd, Who was there ? Her Mistress would say, bring it in here, I suppose there is none but Friends ; and after the Company was gone, she used to make her Mother believe that she went to Bed, but she used to go out and take the Key with her, and sometimes she would go out at the Window ; and she said particularly one time, she went out at the Garden Window, when the Garden-Door was lock'd, and that she bid her not sit up for her, for she would come in at any time.

Mr B. Hatfell, Did ever *Sarah Walker* tell you that Mrs Stout had staid out all Night ?

Mrs Mince, She hath said she could not tell what time she came in, for she went to Bed.

Mr. Cowper, Now if your Lordship please, I will prove to you, if it may be thought material, that *Gurree*, at whose House these Gentlemen lodged, should say, That if I had visited Mrs Stout none of all this had been (upon so little an Omission it seems did this Prosecution depend) to which I give this Answer, my Lord, I never did once go to Visit her in my Life ; she knows it. Now for a Man officiously to make a new Visit in the time of the Assizes ; one engaged in Business as I was, and especially upon so melancholy an Occasion ; I say, for me to go officiously to see a Woman I never had the least knowledge of, would have been thought more strange (and justly might have been so) than the Omission of that Ceremony. For my part, I cannot conceive what Mr *Gurree* could mean, this being the Case ; by saying, that if I had Visited Mrs Stout, nothing of this had hapned.

Mr B. Hatfell, Mr. Cowper, he is not the Prosecutor, I think it is no matter what he said.

Mr Cowper, I take it, my Lord, with humble submission, it is material as he is a principal Witness against these Gentlemen ; and the rather, for that he now pretends, that what he did was out of Conscience. My Lord, I have only one thing more to say, I know not whether it will be requisite for me or no to give some account of my self, Sir William Ashurst, if you please.

Sir William Ashurst, My Lord, if I had not had a good Opinion of this Gentleman, I had not come on purpose to hear this Cause, which has made so great a Noise all England over.

Mr Bar. Hatfell, But what do you say as to Mr Cowper's Reputation, for which you are called ?

Sir William Ashurst, I always thought Mr Cowper to be a Gentleman of singular Humanity and Integrity : he is an Officer in London, and as to his management of his Office, I think no Man ever perform'd it better, or has a better Reputation in the Place where he lives.

Sir Thomas Lane, My Lord, I came hither on purpose to own this Gentleman, and indeed he deserves to be owned by his Friends, and those that know him ; his Character is altogether untainted with us ; he has gained a good Reputation in the Business wherein he is concerned ; he has behaved himself in his Office which he holds of the City of London, very honestly and well ; I never knew him discover any ill Nature in his Temper, and I think he cannot be suspected of this, or any other Act of Barbarity.

Mr Cowper, My Lord, in the next place, I would call Mr Cox, who has the Honour to serve in Parliament, for the Burrough of Southwark ; and has been my near Neighbour these Eight or Nine Years. If you please, Mr Cox, give an Account what Reputation and Character I have in that Place.

Mr Cox, My Lord, I live in Southwark, where Mr Cowper lives ; I have lived by him Eight or Nine Years ; I know him to be a Person of Integrity and Worth ; all the Neighbours Court his Company ; I take him to have as much Honour and Honesty as any Gentleman whatsoever ; and of all Men that I know, he would be the last Man, that I should suspect of such a Fact as this is ; I believe nothing in the World could move him to entertain the least thought of so foul a Fact.

Mr Cowper, Mr Thompson, I desire you would be pleased to give an Account of what you know of me.

Mr Thompson, If you please, my Lord, the first Acquaintance I had with Mr Cowper, was in our Childhood ; I had the Honour to go to Westminster School with him : I did not renew my Acquaintance with him till about Five Years ago ; since that time, I have been often with him, and have several times had occasion to ask his Advice, in matters relating to his Profession ; and I think no Man more faithful in the Service of his Client than he is, and I am sure he is very deserving of the Esteem of any Man, and I believe he never entertained a thought of so foul and barbarous a Fact as this, of which he is accused.

Mr Bar. Hatfell, Mr Marson, you have heard the Evidence, what do you say to it ?

Mr Marson,

Mr. B. Hatjfell, Mr. Marson, you have heard the Evidence, what do you say to it ?

Mr. Marson, My Lord our business at *Hartford* was this, Mr. *Ellis Stephens* and I went down, he is Clerk of the Papers of the *King's Bench* and Mr. *Rogers* is Steward of the *King's Bench*, and it was their Duty to wait upon my Lord Chief Justice with the Marshal of the *King's Bench* out of Town, and on Monday Morning we went to my Lord Chief Justice's House in *Lincoln-Inn-Fields* as we used to do, and there set out, but I being an Attorney of the Borough Court could not with any convenience go farther with them than to a place which I think is called *King's Land*, and therefore I returned to my Business in *Southwark*, where I attended the Court as was customary and necessary for me to do, and set forth from thence at past 4 in the Afternoon ; by the way as I remember about *Waltham-Cross* I met one Mr. *Hanks* a Clergyman of my acquaintance who had been likewise to attend my Lord Chief Justice to *Hertford* and was returning from thence, with some perswasion I prevailed with him to go back again with me to *Hertford*, telling him, I did not know the way, and we gallop'd every step of it because Night was coming on, it was about 8 a Clock when we came in, Mr. *Hanks* and I found the Marshal, Mr. *Stevens*, Mr. *Rogers*, Mr. *Rutkin*, and others of the Marshal's Acquaintance at the Coffee-House ; and truly when I came in I might for ought I know be in a Sweat with riding so hard as we did, but even then I was not in such a Sweat as the Witnesses would have it. My Lord, we went from thence to the *Glove and Dolphin* and stay'd there till about 11 a Clock, Mr. *Rogers* and I had a Dispute who should lie with Mr. *Stevens* at the now Witness Mr. *Gurry's*, at last it was agreed between us to go to *Gurry's* to see what Convenience he could make for us, and Mr. *Rutkin* and Mr. *Hanks* went with us with design to drink a Glass of Wine at our Lodging, but afterwards it came in Mr. *Rutkin's* Head, that he was to lie with the Marshal, and for that reason he said he would go back again, and accordingly he went, and Mr. *Hanks* with him after they had seen us into our Lodgings, and Mr. *Stevens* and Mr. *Rogers* and I drank 3 Bottles of Wine together, Mr. *Gurry* our Landlord was sent to fetch it ; and afterwards in jocular Conversation I believe Mr. *Stevens* might ask Mr. *Gurry* if he knew one Mrs. *Sarah Stout*, and the reason why he ask'd that Question our Witnesses will explain ; I believe he might likewise ask, what sort of Woman she was ; and possibly I might say the words, *My Friend may be in with her*, tho' I remember not I did say any think like it, but I say there is a possibility I might, because I had heard she had deny'd Mr. *Marshall's* Suit, and that might induce me to say *My Friend may be in with her*, for all that I remember, I confess Mr. *Rogers* ask'd me what Money I had got that Day, meaning at the Borough Court, I answer'd, Fifty Shillings, faith he, we have been here spending our Money, I think you ought to treat us, or to that purpose ; as for the Bundle mention'd, I had no such except a pair of Sleeves and a Neckcloth : As to the Evidence which goes to words spoken, the Witnesses have fruitful Inventions, and as they have wrested and improved the Instances I have been particular in, so have the rest, or otherwise forged them out of their own Heads.

Mr. Bar. Hatjfell, Mr. *Rogers*, what do you say to it ?

Mr. *Rogers*, We came down with the Marshal of the *King's Bench*, it rained every step of the way ; so that my Spatter-dashers and Shoes were fain to be dried ; and it raining so hard we did not think Mr. *Marson* would have come that day, and therefore we provided but one Bed, tho' otherwise we should have provided two, and were to give a Crown for our Nights Lodging ; we went from the Coffee-house to the Tavern, as Mr. *Marson* has said, and from the Tavern the next way to our Lodging, where there was some merry and open Discourse of this Gentlewoman, but I never saw her in my Life, nor heard of her Name before she was mention'd there.

Mr. *Stevens*, We never stirr'd from one another, but went along with the Marshal of the *Kings-Bench* to accompany my Lord Chief Justice out of Town, as is usual.

Mr. Bar. Hatjfell, I thought it had been usual for him to go but half of the way with my Lord Chief Justice.

Mr. *Rogers*, They generally return back after they have gone half the way, but some of the head Officers go throughout.

Mr. *Stevens*, It was the first Circuit after the Marshal came into his Office, and that's the reason the Marshal went the whole way.

Mr. Bar. Hatjfell, Did not you talk of her Courting-days being over ?

Prisoners, Not one word of it, we absolutely deny it.

Mr. *Stevens*, I never saw her.

Mr. *Jones*, Mr. *Marson*, did you ride in Boots ?

Mr. *Marson*, Yes.

Mr. *Jones*, How came your Shoes to be wet ?

Mr. *Marson*, I had none. Call Mr. *Heath*, Mr. *Hunt*, and Mr. *Foster*.

Mr. *Marson*, Mr. *Hunt* will you please to acquaint my Lord and the Jury with what Discourse we had on Sunday Night before the Assizes at the *Old Devil Tavern* at *Temple Bar*.

Mr. *Hunt*, On Sunday night I happened to be in company with Mr. *Marson* and 3 or 4 more of *Clifford's Inn*, and there was a Discourse of the Marshal's attending my Lord Chief Justice out of Town to *Hertford*, and Mr. *Marson* said, *It may be the Marshal may require my waiting upon him too* ; and the whole Company being known to Mr. *Marshall*, and there being a Discourse of Mr. *Marshall's* courting of Mrs. *Stout*, faith one of the Company, *If you do go to Hertford pray enquire after Mr. Marshall's Mistress, and bring us an account of her*.

Mr. *Jones*, Who was in company ?

Mr. *Hunt*, There was Mr. *Heath*, Mr. *Foster*, Mr. *Marson*, Mr. *Stevens*, Mr. *Bevor*, and M. *Marshall*.

Mr. *Marson*, Now it was this Discourse that gave us occasion to talk of this Woman at *Gurreys House*, which we did openly and harmlessly. Mr. *Foster*, Do you remember any thing of our talking of this Gentlewoman on Sunday Night ?

Mr. Forster, Yes, I and they were talking that they should go to *Hertford* the next Day, to wait on the Marshall in compliment to my Lord Chief Justice, and go as far as *Hertford*; and there being a Report, that Mr. Marshall courted this Woman, we put in a jesting way, *Pray enquire after Mr. Marshalls, Mistress how the Match goes on, for there was some Wagers between him and the Company who should be married first,* and so in a jocular way it went about, and Mr. Marson or Mr. Stevens said, *They would do their endeavour: and they would enquire after the Lady, and give as good an account of her as they could.*

Mr. Stevens, If you please, my Lord, we will call another to this purpose.

Mr. Bar. Hatfell, No, I think you need not, for it seems not material.

Then Mr. Hanks was call'd.

Mr. Hanks, I came as far as *Waltham's Cross* to wait upon my Lord Chief Justice, I staid there till about 4 or 5 a Clock, and then set out for *London*, and I met with Mr. Marson who importun'd me to go back with him to *Hertford*, and accordingly I did so, and we came in about 7 or 8 at Night, and we enquired after the Marshal of the *King's Bench*, and where he had set up his Horses, and we found him in the Coffee-House just by the Court and we went and set up our Horses, and came again to him, from thence we went to the *Glove and Dolphin Tavern*, these 3 Gentlemen and the Marshal, and one Mr. Rutkin came afterwards to us, and we staid till about 11 at the *Glove and Dolphin*.

Mr. Marson, Do you remember how we rid?

Mr. Hanks, Yes, very hard.

Mr. Bar. Hatfell, What time did you come into the Tavern?

Mr. Hanks, Between 7 and 8 as I remember.

Mr. Bar. Hatfell, And did you stay there till past 11?

Mr. Hanks, Till about 11, little more or less, we went away together in order to drink a Glass of Wine with them at their Lodging, but Mr. Rutkin considering that he was to drink a Glass of Wine, and lye with the Marshal, thought it would disturb the Marshal, so saith he, *I will not go in*, but we saw them go into their Lodgings and returned to the *Bull*, where we eat part of a Fowl, and I was never out of Mr. Marson's Company all that time.

Mr. Marson, When you took your leave of me, don't you remember that the Door was clapt too?

Mr. Hanks, I can't remember that.

Mr. Marson, Mr. Gurry saith, I never went out after I came home. Mr. Rutkin pray give an account to my Lord and the Gentlemen of the Jury of what you know of my coming to *Hertford*.

Mr. Rutkin, My Lord, I came to wait on the Marshal of the *King's Bench* to *Hertford*, and when we were come to *Hertford* we put up our Horses at the *Bull*, and made our selves a little clean, we went to Church, and din'd at the *Bull*, and then we walk'd in and about the Court and diverted our selves till about 7 a Clock, and between 7 and 8 a Clock came Mr. Marson and Dr. Hanks to Town, and then we agreed to go to the *Dolphin and Glove* to drink a Glass of Wine, the Marshal went to see an ancient Gentleman, and we went to the *Dolphin and Glove* and staid there till past 10 a Clock, and after the Reckoning was paid we went with them to their Lodging with a Design to take a Glass of Wine, but then I consider'd I was to lie with the Marshal, and for that reason I resolv'd not to go in, but came away, and went to the *Bull Inn*, and after I drank part of a Pint of Wine, and afterwards I went to the next Door to the *Bull Inn* where I lay with the Marshal.

Mr. Jones, What time did the Gentlemen go to their Lodging?

Mr. Rutkin, I am not positive as to that, but I believe it was about 11 a Clock.

Mr. Marson, If your Lordship pleases now I'll call some Persons to give an Account of me. Mr. Cox.

Mr. Cox, I have known Mr. Marson a long time, and had always a good Opinion of him, I don't believe 5000 l. would tempt him to do such a Fact.

Mr. Marson. Capt. Wise, I desire you would please to speak what you know of me.

Mr. Cowper, My Lord, because these Gentlemen are Strangers in the Country, I think if in taking an account of any Evidence for my self there is any thing occurs to me that they may have a just advantage of, I think I ought not to conceal it, for I am as much concern'd to justify their Innocence as my own: The principal Witness against them is one *Gurrey*, and I will prove to you, that since he appear'd in this Court and gave his Evidence he went out in a triumphant manner, and boasted, that he by his management had done more against these Gentlemen than all the Prosecutors Witnesses could do besides; to add to that I have another piece of Evidence that I have been just acquainted with. My Lord, it is the Widow *Davis Gurrey's* Wives Sister that I would call,

Major Lane, My Lord, I have known Mr. Marson ever since he was two years old, and never saw him but a civiliz'd Man in my life; he was well bred up among us, and I never saw him given to Debauchery in all my life.

Mr. Bar. Hatfell, Where do you live?

Major Lane, In *Southwark*, my Lord.

Mr. Bar. Hatfell, Well, what do you say, Mrs. Davis?

Mrs. Davis, I came to the House where these Gentlemen lodg'd, I was in about half an Hour, and my Sister ask'd me to air two or three Pair of Sheets; when I had air'd the Sheets she ask'd me to go up and help to lay them on, and before I had laid them on, these Gentlemen came into the Room.

Mr. Bar. Hatfell, What Hour?

Mrs Davis, By the time of my going out again I believe it might be about Ten, or something better, and they drank three Quarts of VVine, and they had some Bread and Butter and Chese carried up, and so they went to Bed, and after my Brother went to fetch Mr Gape, that lay at his House, from Hockley's.

Mr Cowper, I only beg leave to observe, that Gurrey denied that he went for him.

Mr B. Hatfell, Ay, but this signifies very little whether it be true or false.

Mrs Davis, The next day after these Gentlemen were about the Town, and she said, she did believe they were come to clear a young man (a Minister's Son) that was tried at the Bar for robbing the mail; I asked, VVhy she thought so, she said she was sure of it, and I asked her how she could be sure of it, when she was never told so; VVhy said I, then do they accuse these Gentlemen, they ought rather to take up the Gentleman that was with Mrs Stout's maid; and she said, if they took up Mrs Stout's maid, they should have never a VVitnæss.

Mr B. Hatfell, Who was that that was talking with Mrs Stout's maid?

Mrs Davis, I don't know; but she said she did not like their Actions, and therefore she ought to have been examined who she was with.

Capt. Wise, I have known Mr Marson several Years, and he is a Person of as fair Reputation as any in the Borough.

Mr Reading, I have been acquainted with Mr Marson 20 Years; he lives near the House where I now do; he has a general good Character among his Neighbours, for a fair man in his Practice, an honest man, and a man of good Conversation.

Mr B. Hatfell, Well Mr Stevens, What do you say?

Mr Stevens, I desire Sir Robert Austin to give an Account of me.

Sir Robert Austin, I have known Mr Stevens many Years; his Brother is Captain in a neighbouring County, he is reckon'd not only an honest man in his Practice, but has the general Character of a good-natur'd man; and he is so far from being a Person likely to do such an Action, that for a younger Brother he was very well provided for; his Father left him 1000*l.* and he is Clerk of the Papers, which is reputed worth 100*l.* per Ann. and is in good Practice besides.

Juryman, I have known him several Years, and he hath the same Reputation Sir Robert hath given him.

Sir John Shaw, I know Mr Stevens, and his Brother Captain Stevens: As to this Gentleman, he hath always behav'd himself well in our Country, and hath the Character of an honest Gentleman.

Mr Evans, I have known him these eight Years, and to be a very civil Person, and well educated, and never heard but a good Character of him: I have also known Mr Marson these Ten Years, and never saw any ill by him, and do believe, that he or the other would not have done such an ill thing to have gain'd this County.

Mr Menlove, My Lord, Mr Steven: was my Clerk, and behav'd himself very honestly with me. And since that, I have kept a Correspondence with him, and I believe he would not do such a thing for all the World.

Mr B. Hatfell, Call some body to speak for Mr Rogers, if there be any.

Mr Evans, My Lord, Mr Rogers hath a general Character in Southwark for a very honest man.

Mr Rogers, Pray call Mr Lygoe.

Sir, please to give my Lord and the Court an Account what you know of me.

Mr Lygoe, My Lord, I have known all the 3 Gentlemen at the Bar, but particularly Mr Rogers and Mr Stevens from their infancy; I have employ'd them both in Business several times, and always found them fair Practicers, and believe neither of them would be guilty of doing an ill Act.

Mr Rogers, Call Mr Thurlby.

Sir, Pray give the Court an Account how I behaved my self in your Service.

Mr B. Hatfell, Come, Mr Thurlby, What do you say of Mr Rogers?

Mr Thurlby, My Lord, Mr Rogers lived with me about eight Years, in which time I frequently trusted him with very great Sums of mony; I ever found him just and faithful, and can't believe that any mony could tempt him to do an Act of this kind.

Mr Jones, My Lord, we must insist upon it, that Mr Cowper hath given a different Evidence now from what he did before the Coroner; for there he said he never knew any Distraction or Love-fit, or other occasion she had to put her upon this extravagant Action. Now here he comes and would have the whole Scheme turn'd upon a Love-fit. Call John Mason (who was Sworn)

Mr B. Hatfell, What do you say, Sir, to this matter?

Mr Stout, When Mr Cowper was examined before the Coroner, he was asked, if he knew any reason why she should do such a Thing; and he said, She was a very modest VVoman, and he knew no cause why she should do such a Thing as this. John Mason, VVas you by when Mr Cowper gave Evidence before the Coroner.

Mason, Yes.

Mr VVhat did he say?

Mason, He said he did not know any thing was the Cause of it, but she was a very modest Person.

Mr Jones, Was he upon his Oath?

Mason, Yes, He was.

Mr B. Hatfell, When did he say this?

Mason, 'Twas the same Day that she was found.

Mr Jones, Did they ask him any Question, if he knew any Person that she was in love with?

Mason, He said he knew but of one, and his Name was Marshall, and Mr Marshall told him, that he was always repulsed by her.

Mr Stout,

Mr Stout, I desire John Archer may be ask'd the same Question,

(who was Sworn)

Mr Jones, Was you present with the Coroner's Inquest?

Archer, Yes.

Mr Jones, Was Mr. Cowper examined by them?

Archer, Yes, he was.

Mr Jones, What did he say concerning Mrs Stout then?

Archer, They ask'd him, if he knew any occasion for Mrs Stout's Death, and he said he knew nothing of it, or of any Letters.

Mr Cowper, Then I must call over the whole Coroner's Inquest to prove the contrary.

Mr Baron Hatfell, Did they ask him concerning any Letters?

Archer, They asked him, if he knew of any thing that might be the Occasion of her Death.

Mr Baron Hatfell, I ask you again, if they asked him if he knew of any Letters?

Archer, My Lord, I don't remember that.

Mr Stout, I would have called some of the Coroner's Inquest, but I was stop't in it.

Juryman, We have taken Minutes of what has pass'd, if your Lordship please, we will withdraw.

Mr Baron Hatfell, They must make an end first.

Mr Jones, If your Lordship please, we will call one Witness to falsifie one piece of their Evidence, and that is one Widow Larkin. (Who was Sworn)

Mr Jones, Do you remember one Mr Rutkin's being at your House?

Larkin, Yes.

Mr Jones, At what time did he come in?

Larkin, Between 9 and 10 of the Clock.

Mr Jones, Was the Marshal then in the House?

Larkin, No, the Marshal did not come till near an Hour after.

Mr Jones, Did not he go out afterwards?

Larkin, Not that I know of.

Mr Rutkins, I am satisfisd it was past 11 when I came in.

Mr B. Hatfell, It is likely it may be true, for I believe they did not keep very good Hours at that time.

Mr Stout, I desire to call some Witneses to my Sister's Reputation.

Mr Jones, My Lord, they would call Witneses to this Gentlewoman's Reputation; I believe the whole Town would attest for that, that she was a Woman of a good Reputation; indeed they have produced some Letters without a Name, but if they insist upon any thing against her Reputation we must call our Witneses.

Mr B. Hatfell, I believe no body disputes that, she might be a vertuous Woman, and her Brains might be turned by her Passion or some Distemper.

Gentlemen of the Jury, you have heard a very long Evidence I am sure that you can't expect that I should summ it up fully; but I will take notice of some things to you, that I think are most material and if I omit any thing that is material, I would desire Mr Jones (that is Council for the King) and Mr Cowper, to put me in mind of it.

The Indictment against the Prisoners at the Bar, is for a very great Crime, it is for Murther, which is one of the most horrid of all Crimes: You are to consider first, What Evidence you have heard to prove it; and tho' there be no direct Proof, you are to consider what is Circumstantial.

They do begin with Sarah Walker, who was Mrs Sarah Stout's maid; and she tells you, That Mr Cowper, when he came to this Town upon Monday the 13th of March last, came to Mrs Stout's House and dined there, and went away about four of the Clock in the Afternoon; but she tells you, that the Friday before, there came a Letter from Mr Cowper's Wife to Mrs Stout, to let her know, that Mr Cowper would come and lodge at their House at Hertford at the Assizes, so that when he came, she thought that he had intended to have done according to that Letter. She saith, that after Dinner Mr Cowper went away, and came again at 9 at Night, and there he supp'd, he was desired so to do (and indeed had been invited to Dinner also that day) and she doth say, that after Supper there was a Fire made in his Chamber (for this young Gentlewoman Mrs Stout, prest him to lie at their House) and she ordered the maid to warm his Bed, and I believe, says she, Mr Cowper heard her say so, for he was nearer to her than I at that time; and he doth not deny, but that he heard it; she says, that accordingly she went up to warm the Bed, and having staid there a while, she heard the Door clap, and when she came down into the Parlour, where she had left them, they were both gone, and that she could not tell what the meaning of it was, and they waited for her all Night, old Mrs Stout and this maid, and she did not come in all Night, nor was afterwards seen alive. But Mr Cowper was the last Person seen in her Company.

The other Witneses that came afterwards speak concerning the finding of the Body in the River, and tell you in what Posture it was: I shall not undertake to give you the particulars of their Evidence, but they tell you she lay on her right side, the one Arm up even with the Surface of the Water, and her Body under the Water, but some of her Cloaths were above the Water, particularly one says the Ruffles of her left Arm were above the Water: You have heard also what the Doctors and Surgeons said on the one side, and the other concerning the swimming and sinking of dead Bodies in the Water, but I can find no certainty in it, and I leave it to your consideration.

Another Circumstance they build on, and which seems to be material, is of her Belly being lank, and that there was no swelling; whereas, say they, when a Person is drowned, there is a great deal of Water goes in, and makes the Belly to swell; but here was no swelling that morning she was taken

out,

out, and no Water came out of her Mouth and Nostrils, only a little Froth there was, and her Belly was lank, but say they, on the other side, that may very well be, for perhaps she might be choaked immediately, as soon as she was in the Water, and, say they, you may not wonder at that, for if she went to drown her self, she would endeavour to be choaked as soon as she could, for those Persons that are crowned against their own consent do swallow a great deal of Water, but those that drown themselves, don't swallow much Water, for they are choaked immediately by the Water going into the Windpipe, that we commonly call going the wrong way. The Doctors and Surgeons have talk'd a great deal to this purpose, and of the Water's going into the Lungs or the Thorax, but unless you have more skill in Anatomy than I, you won't be much edify'd by it; I acknowledge I never studied Anatomy, but I perceive that the Doctors do differ in their Notions about these things, but as to matter of Fact, its agreed to by all the Witnesses for the King, that her Body was lank, her Belly was thin, and there was no sign of any Water to be in it. They, on the other side tell you, that her Stays was on, and she was strait-laced, and that might occasion her Belly's being so small, and hinder the Water from going in.

Gentlemen, I was very much puzzled in my Thoughts, and was at a loss to find out what inducement there could be to draw in Mr *Cowper*, or these 3 other Gentlemen, to commit such a horrid barbarous Murder. And on the other hand, I could not imagin what there should be to induce this Gentlewoman, who is a Person of a plentiful Fortune, and a very sober good Reputation, to destroy her self.

Now Gentlemen, I must confess the Evidence that the Defendants have given by these Letters, if you believe them to be this Gentlewoman's Hand-writing, do seem to fortifie all that Mr *Cowper*'s Witnesses have said concerning her being melancholy, it might be a Love-Distraction, and she might have been a virtuous Woman for all that, for it might be a Distemper which came upon her, and turned her Brains, and discomposed her Mind, and then no wonder at her writing thus, in a manner different from the rest of the Actions of her life. Gentlemen, you are to consider and weigh the Evidence, and I will not trouble you any more about that matter. As to these 3 other Gentlemen that came here to this Town at the time of the last Assizes, what there is against them you have heard, they talk'd at their Lodging at a strange rate concerning this Mrs *Sarah Stout*, saying, Her Business is done, and that there was an end of her Courting-days, and that a Friend of theirs was even with her by this time. What you can make of it, that I must leave to you, but they were very strange Expressions, and you are to judge whether they were spoken in jest, as they pretend, or in earnest. There was a Cord found in the Room, and a Bundle seen there, but I know not what to make of it. As to Mrs *Stout*, there was no sign of any Circle about her Neck, which, as they say, must have been if she had been strangled. Some Spots there were, but it is said possibly those might be occasioned by rubbing against some Piles or Stakes in the River. Truly, Gentlemen, these 3 Men by their talking have given great cause of Suspicion, but whether they or Mr *Cowper*, are Guilty or no, that you are to determin. I am sensible I have omitted many things, but I am a little faint, and cannot repeat any more of the Evidence.

Jury. We have taken minutes, my Lord.

Mr *B. Hatfield*, Well then Gentlemen, go together, and consider your Evidence, and I pray God direct you in giving your Verdict?

Then one was Sworn to keep the Jury; and in about half an hour the Jury returned.

Cl. of Arr. Gentlemen, are you all agreed in your Verdict?

Omnes, Yes.

Cl. of Arr. Who shall say for you?

Omnes, Foreman.

Cl. of Arr. *Spencer Cowper*, Hold up thy Hand (which he did) look upon the Prisoner; how say you? Is he guilty of the Felony and Murder whereof he stands Indicted, or not guilty?

Foreman, Not guilty.

In like manner the Jury did give their Verdict, that *John Mayson*, *Ellis Stephens*, and *William Rogers* were not guilty.

The Examination of *John Marson*, taken before me this 7th day of *April*, 1699.

This should have been inserted in page 16.

WHo being examined where he was on *Monday* the 13th of *March* last, saith, that he was at the Burrough of *Southwark* (he being an Attorney of the said Court) till past four of the Clock in the Afternoon; and saith, that he set out from *Southwark* for *Hartford* soon after, and came to *Hartford* about 2 of the Clock the same Afternoon, and put up his Horse at the Sign of _____ an Inn there, and then went to the *Hind and Glove*, together with *Godfrey Gimbart*, Esq; *Ellis Stevens*, *William Rogers*, and some others, where they staid till about eleven of the Clock at Night, and then this Examinant went thence directly to the House of *John Gurrey*, with the said *Stevens* and *Rogers*, who lay all together in the said *Gurrey's* House all that Night. And being asked what he said concerning the said *Mrs Sarah Stout* deceased, this Examinant saith, that on *Sunday* the 12th of *March* last, this Examinant being in Company with one *Mr. Thomas Marshall*, and telling him that this Examinant intended the next day for *Hartford* with the Marshal of the *Kings Bench*, the said *Thomas Marshall* desired this Examinant and the said *Stevens*, who was then also in Company, that they would go and see the said *Sarah Stout* (his Sweet-heart). He confesseth that he did ask the said *Gurrey* if he would shew this Examinant where the said *Stout* lived, telling the said *Gurrey* that his Name was *Marshall*, and asked him if he never heard of him before, and jocularly said that he would go to see her the next Morning; but doth not believe that he said any thing that any Friend was even with the said *Sarah Stout*, or to such like effect. And doth confess that he did the next day, upon the said *Gurrey's* telling him that the said *Stout* was drowned, say, that he would keep his Word, and would see her. And saith, that meeting with *Mr. Cowper* (who is this Examinants acquaintance) he believes he did talk with him concerning the said *Stout's* being drowned, this Examinant having seen her Body that Morning.

John Marson.

*Cogn. Die & Anno
antedict. coram*

J. Holt.

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